

COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON
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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

IN RE THE PERSONAL RESTRAINT OF GUADALUPE SOLIS DIAZ,

Guadalupe Solis Diaz,

Petitioner

PERSONAL RESTRAINT PETITION

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I. STATUS OF PETITIONER

Petitioner Guadalupe Solis Diaz is currently serving a term of imprisonment at Washington State Penitentiary in Walla Walla, Washington. He was convicted of six counts of first degree assault, one count of drive by shooting, and one count of second degree unlawful possession of a firearm on December 7, 2007, for a crime committed when he was sixteen years old. Sentence was imposed in Lewis County Superior Court on December 17, 2007 in Cause No. 07-1-00543.

Mr. Solis Diaz appealed the decision of the trial court. The Court of Appeals, Division Two, affirmed the conviction on October 13, 2009, in Cause No. 37120-1-II. A Petition for Review was filed on November 13, 2009 and denied on March 30, 2010. The Mandate was issued on May 4, 2010.

Mr. Solis Diaz has been confined since he was arrested on these charges in August 2007. He has not previously filed a Personal Restraint Petition. This is the first time that he has filed for relief based on *Graham v. Florida*, 560 U.S. ___, 130 S. Ct. 2011, 76 L. Ed. 2d 825 (2010).

II. GROUNDS FOR RELIEF

A. Statement of Facts

Mr. Solis Diaz was sixteen years old at the time of the crime. He was declined automatically to adult court where he was subsequently

convicted of six counts of first degree assault, one count of drive by shooting, and one count of second degree unlawful possession of a firearm, all non-homicide offenses. He was sentenced to a term of 1,111 months. *Id.* His earliest possible release date for this offense will be in 2093, when he will be 103 years old.

B. Inadequacy of Other Remedies

No remedies are available to Mr. Solis Diaz to challenge his restraint other than this Personal Restraint Petition or an equivalent habeas corpus petition.

C. Unlawfulness of Restraint

Mr. Solis Diaz should be granted relief pursuant to RAP 16.4(c)(2) and (4). His 92-year sentence violates the Eighth Amendment's ban on cruel and unusual punishment because it condemns him to die in prison for a non-homicide crime committed when he was 16 years old. His sentence also constitutes cruel punishment in violation of article I, section 14 of the Washington State Constitution because no one was injured as a result of the offense, his extreme sentence does not further the legislative purpose, and other offenders have received much lighter sentences for similar and more severe conduct. Further, Mr. Solis Diaz was denied effective assistance of counsel when his trial counsel failed to cite

applicable case law and request an exceptional sentence downward for multiple offenses arising out of one drive by shooting incident.

In *Graham v. Florida*, the United States Supreme Court held that a sentence of life without parole imposed for a non-homicide crime committed by a juvenile violates the Eighth Amendment's ban on cruel and unusual punishment. 560 U.S. at ___, 130 S. Ct. at 2030. The Court further held that offenders convicted of non-homicide crimes committed when they were juveniles must be given "some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation." *Id.*

In Washington, there are no offenders serving sentences of "life without parole" for juvenile non-homicide offenses. Instead, because of the mandatory sentence ranges that courts must impose under the Sentencing Reform Act (SRA), juveniles may be sentenced to term of years sentences that deny all possibility of release.

Mr. Solis Diaz received a sentence that will last his entire life. He has no realistic possibility of release unless he lives to be at least 103 years old. Because Washington does not have a parole system, Mr. Solis Diaz's sentence provides him with no more opportunity for release than someone sentenced to "life without parole" and denies him any meaningful opportunity of release in his lifetime. Thus, his sentence constitutes cruel and unusual punishment in violation of the Eighth Amendment to the

United States Constitution and article I, section 14 of the Washington State Constitution, and is inconsistent with the Supreme Court's rationale in *Graham*. In addition, counsel for Mr. Solis Diaz was ineffective for failing to request a mitigated exceptional sentence pursuant to *In re Mulholland*, 161 Wash.2d 322, 166 P.3d 677 (2007).

III. STATEMENT OF FINANCES

Mr. Solis Diaz is unable to pay the filing fees or fees of counsel. He respectfully requests that the Court waive any fees levied as a result of this petition. He also requests that the Court appoint him counsel.

IV. REQUEST FOR RELIEF

Mr. Solis Diaz requests that this Court find that the sentence imposed in this matter violates the Cruel and Unusual Punishments clause of the Eighth Amendment and article I, section 14 of the Washington State Constitution. Mr. Solis Diaz also requests the court to find that he was deprived of his constitutional right to effective assistance of counsel. As such, the court should grant this PRP and remand this matter to Superior Court where the court should be directed to impose a sentence that offers some meaningful opportunity for Mr. Solis Diaz to obtain release before the end of his natural life.

V. OATH

After being first duly sworn, on oath, I depose and say: That I am the

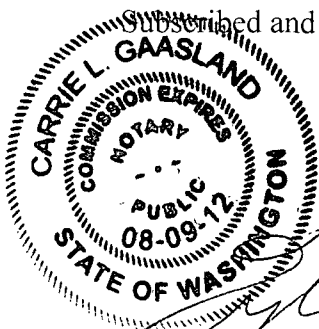
attorney for Mr. Solis Diaz, that I have read the petition, know its contents,
and I believe the petition is true.

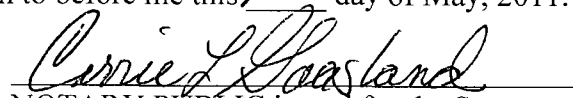
Dated this 7th day of May, 2011.




KIMBERLY AMBROSE
WSBA # 19258

Subscribed and sworn to before me this 7th day of May, 2011.




NOTARY PUBLIC in and for the State
of Washington, residing at Seattle, WA


Dylan Tessier, Law Student

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

IN RE THE PERSONAL RESTRAINT
OF
GUADALUPE SOLIS DIAZ

Case No. 37120-1-II

VERIFICATION

I, Guadalupe Solis Diaz, declare the following:

I have received a copy of the petition prepared by my attorneys and I consent to
the petition being filed on my behalf.

I DECLARE under the penalty of perjury of the laws of the State of Washington
that the foregoing is true and correct.

DATED this 10 day of May, 2011 at Walla Walla, Washington.


Guadalupe Solis Diaz

5-10-11

Kim Ambrose / Dylan Tessier

"THANK YOU SO MUCH!" Here
is what I needed to sign. I appreciate
this all, "sorry for keeping you both
up, from sleep."

Sincerely:

Shoreline Day

Yes,

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Motion: ____

Answer/Reply to Motion: ____

Statement of Additional Authorities

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Response to Personal Restraint Petition

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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

IN RE THE PERSONAL RESTRAINT OF GUADALUPE SOLIS DIAZ,

Guadalupe Solis Diaz,

Petitioner

BRIEF IN SUPPORT OF PERSONAL RESTRAINT PETITION

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TABLE OF CONTENTS

I. INTRODUCTION.....	1
II. ISSUES PRESENTED.....	2
III. STATEMENT OF THE CASE.....	3
A. FACTS.....	3
1. Background	3
2. Conviction and Sentencing.....	4
3. Prison	5
IV. GROUNDS FOR RELIEF	6
V. ARGUMENT.....	7
A. GUADALUPE’S 92-YEAR SENTENCE, IMPOSED FOR A NON-HOMICIDE CRIME COMMITTED WHEN HE WAS A JUVENILE, PROVIDES NO MEANINGFUL OPPORTUNITY FOR RELEASE AND IS THUS INCONSISTENT WITH THE RATIONALE BEHIND THE SUPREME COURT’S DECISION IN <i>GRAHAM V. FLORIDA</i> AND CONSTITUTES CRUEL AND UNUSUAL PUNISHMENT IN VIOLATION THE EIGHTH AMENDMENT.....	7
1. Guadalupe’s Sentence Is Cruel And Unusual Punishment Because It Provides No Meaningful Opportunity For Release And Condemns Him To Die In Prison For A Non-Homicide Crime Committed When He Was A Juvenile	7
2. Sentencing A Juvenile Non-Homicide Offender To 92 Years In Prison With No Meaningful Opportunity For Release Is Inconsistent With The Supreme Court’s Rationale In <i>Graham v. Florida</i>	10
a. <u>In Light Of Their Diminished Culpability, Juveniles Should Not Be Sentenced To Die In Prison For Non- Homicide Crimes</u>	10

b. <u>None Of The Penological Goals Justify Sentencing Guadalupe To Die In Prison For A Non-Homicide Crime Committed When He Was A Juvenile</u>	13
3. Guadalupe Should Be Provided With A Meaningful Opportunity For Release Based On Demonstrated Maturity And Rehabilitation	16
B. GUADALUPE’S SENTENCE CONSTITUTES CRUEL PUNISHMENT UNDER ARTICLE I, SECTION 14 OF WASHINGTON’S STATE CONSTITUTION.....	17
1. Article I, Section 14 Is More Protective Than The Eighth Amendment	17
2. An Analysis Of The Fain Factors Demonstrates That Guadalupe’s 92-Year Sentence Violates Article I, Section 14 Of The Washington Constitution	18
a. <u>The Nature Of The Offense</u>	19
b. <u>The Legislative Purpose</u>	21
c. <u>The Punishment Guadalupe Would Have Received In Other Jurisdictions For The Same Offense</u>	23
d. <u>The Punishment Meted Out For Other Offenses In Washington</u>	24
C. GUADALUPE WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL WHERE HIS COUNSEL FAILED TO CITE APPLICABLE CASE LAW AND FAILED TO REQUEST AN EXCEPTIONAL SENTENCE DOWNWARD FOR MULTIPLE OFFENSES ARISING OUT OF ONE DRIVE BY SHOOTING INCIDENT	28
VI. CONCLUSION	32
APPENDICES 1-10	

TABLE OF AUTHORITIES

Cases

<i>Atkins v. Virginia</i> , 536 U.S. 304, 347, 122 S. Ct. 2242, 153 L. Ed. 2d 335 (2002)	28
<i>Coker v. Georgia</i> , 433 U.S. 584, 592, 97 S. Ct. 2861, 53 L. Ed. 2d 982 (1977)	21
<i>Gideon v. Wainwright</i> , 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963).....	29
<i>Graham v. Florida</i> , 560 U.S. ___, 130 S. Ct. 2011, 2030, 176 L. Ed. 2d 825 (2010).....	passim
<i>In re Mulholland</i> , 161 Wash.2d 322, 166 P.3d 677 (2007)	7, 29, 31, 32
<i>In Rummel v. Estelle</i> , 445 U.S. 263, 100 S. Ct. 1133, 63 L. Ed. 2d 382 (1980).....	9
<i>Johnson v. Zerbst</i> , 304 U.S. 458, 467, 58 S.Ct. 1019, 82 L.Ed. 1461 (1938).....	29
<i>Naovarath v. State</i> , 105 Nev. 525, 526, 779 P.2d 944 (1989)	15
<i>Roper v. Simmons</i> , 543 U.S. 551, 565-66, 125 S. Ct. 1183, 161 L. Ed. 2d 1 (2005).....	28
<i>State v. Bluehorse</i> , 159 Wash. App. 410, 248 P.3d 537 (2011).....	20
<i>State v. Fain</i> , 94 Wn.2d 387, 393, 617 P.2d 720 (1980).....	17, 18, 21, 27
<i>State v. Gunwall</i> , 106 Wn.2d 54, 61-62, 720 P.2d 808 (Wash. 1986)	18
<i>State v. Manussier</i> , 129 Wn.2d 652, 674, 921 P.2d 473 (1996)	17
<i>State v. McGill</i> , 112 Wash.App. 95, 47 P.3d 173 (Div. 1 2002).....	30
<i>State v. Roberts</i> , 142 Wn.2d 471, 506 n.11, 14 P.3d 713 (2000).....	18
<i>State v. Thomas</i> , 109 Wn.2d 222, 743 P.2d 816 (1987)	29
<i>Strickland v. Washington</i> , 466 U.S. 668, 687 (1984)	29

Statutes

RCW 9.94A.010.....	22
RCW 9.94A.535.....	30
RCW 9.94A.540.....	23
RCW 9.94A.540, Findings -- Intent -- 2005 c 437	23
RCW 9.94A.728.....	7
RCW 9.94A.729.....	8
RCW 9.94A.870.....	8
RCW 9A.20.021.....	25
RCW 9A.36.011.....	25

Oregon Revised Statute §161.610.....	24
--------------------------------------	----

Other Authorities

Florida Statute section 947.149.....	9
RAP 16(c)(2).....	32
RAP 16.4.....	6
Florida Department of Corrections, Senate Criminal Justice Committee, Report on Conditional Medical Release (November 4, 2009).....	9
<i>Statistical Summary of Adult Felony Sentencing Fiscal Year 2010</i> , State of Washington, Sentencing Guidelines Commission (Jan. 2011)....	20, 24, 25

Constitutional Provisions

article I, section 14 of the Washington State Constitution.....	passim
Eight Amendment to the United States Constitution.....	6, 17, 32
Sixth Amendment	28

Newspapers

<i>Drive-by shooter seteenced to 14 years in prison</i> , http://www.wenatcheeworld.com/news/2010/nov/05/drive- by-shooter-sentenced-to-14-years-in-prison/ (last accessed May 3, 2011).....	26
<i>Man Sentenced In Brutal Murder Of His Friend</i> (February 27, 2008), http://www.kirotv.com/news/15431891/detail.html	19
<i>Mattawa drive-by shooter sentenced</i> http://www.columbiabasinherald.com/news/article_d0bebe0 8-3baf-11e0-a40b-001cc4c002e0.html (last accessed May 3, 2011)	27
<i>Pasco teen gets prison sentence for role in drive-by</i> , http://www.tri-cityherald.com/2010/09/16/1171178/pasco- teen-gets-prison-sentence.html (last accessed May 3, 2011).....	26
<i>Ricardo Casares Sentenced to 10 Years for Drive by Shooting</i> http://www.ci.sunnyside.wa.us/news/10- 6095Sentencing.htm) (last accessed May 3, 2011).....	26
<i>Road rage shooting brings 15-year term</i> , http://www.thenewstribune.com/2011/04/30/v- lite/1646680/tacoma-road-rage-shooting-brings.html (last accessed May 3, 2011).....	27
<i>Seattle man sentenced for stabbing death of estranged wife</i> (August 21, 2009)	

http://seattletimes.nwsource.com/html/localnews/2009702851_bonillasentencing21m.html (last accessed May 3, 2011).	19
<i>Teen gets 15 months for drive-by shooting,</i> http://www.bellinghamherald.com/2010/11/10/1713930/teen-gets-15-months-for-drive.html (last accessed May 3, 2011).	26
Two sentenced for murder of homeless man (April 13, 2007), http://www.komonews.com/news/local/7020242.html	19
<i>VALLEY: Sunnyside teens get stiff sentences in drive-by,</i> http://www.tri-cityherald.com/2011/04/12/1447652/valley-sunnyside-teens-get-stiff.html#ixzz1LH62lxFp (last accessed May 3, 2011).	26

I. INTRODUCTION

The United States Supreme Court recently held in *Graham v. Florida*, 560 U.S. ___, 130 S. Ct. 2011, 2030, 176 L. Ed. 2d 825 (2010) that the Eighth Amendment's Cruel and Unusual Punishments Clause does not permit a juvenile to be sentenced to life in prison without the possibility of parole for a non-homicide crime. The Court further held that offenders convicted of juvenile non-homicide crimes must be given a meaningful opportunity for release based on demonstrated maturity and rehabilitation. *Id.* Though Washington State's sentencing scheme does not provide specifically for life without parole sentences for juvenile non-homicide crimes, it does allow for the functional equivalent – term of years sentences that offer no realistic opportunity for release within the offender's lifetime.

Guadalupe Solis Diaz ("Guadalupe") is serving over 92 years in prison for a non-homicide crime committed when he was 16 years old – a crime in which no one was injured. Because Washington has no parole system and the sentence extends well beyond Guadalupe's life expectancy, he will spend the remainder of his life in prison with no hope of release. His sentence is materially indistinguishable from a life without parole sentence since it condemns him to die in prison no matter what he might do to demonstrate that he is fit to rejoin society. Based on the Supreme Court's reasoning in *Graham v. Florida*, such a sentence constitutes cruel

and unusual punishment. Additionally, this sentence constitutes cruel punishment in violation of article I, section 14 of Washington's state constitution.

Guadalupe acted with diligence in bringing forth his claim based on this new case law and this Court should grant his Personal Restraint Petition.

II. ISSUES PRESENTED

1. Whether, in light of *Graham v. Florida*, the Eighth Amendment's ban on cruel and unusual punishments prohibits the imposition of a 92-year sentence, which offers no meaningful opportunity for release, for a non-homicide crime committed by a juvenile.
2. Whether the imposition of a 92-year sentence for a non-homicide crime committed by a juvenile constitutes cruel punishment in violation of article I, section 14 of the Washington State Constitution where (a) no one was injured as a result of the offense; (b) the sentence does not further the legislative purpose; (c) offenders in other jurisdictions could receive much lighter sentences for similar conduct; and (d) offenders in Washington have received much lighter sentences for much more severe conduct.
3. Whether Guadalupe was denied effective assistance of counsel where his counsel failed to cite applicable case law and failed to

request an exceptional sentence downward for multiple offenses arising out of one drive by shooting incident.

III. STATEMENT OF THE CASE

A. FACTS

1. Background

Guadalupe Solis Diaz was born in Centralia, Washington, on August 14, 1990. App. 2 (Decl. of Guadalupe Solis Diaz at 1). His mother is Native American and his father is Mexican. *Id.* He never knew his father and spent his childhood with his mother and two half-sisters. *Id.* He sometimes spent summers with his grandmother on the Quinault Reservation. *Id.* His mother and other family members had alcohol problems, and this affected Guadalupe throughout his childhood. *Id.* Despite this and other hardships, he completed the tenth grade and for the most part managed to stay out of trouble. *See id.* His only brushes with the system were for two juvenile misdemeanors related to drug paraphernalia and alcohol. *Id.*

Around age 16, Guadalupe experienced a particularly rough patch in his life. *Id.* He was having a hard time dealing with his mother's drinking problem, and then he broke up with his girlfriend. *Id.* Feeling depressed and confused, he decided to leave home. *Id.* He spent some time on the streets and eventually fell into gang life with his older cousins. *Id.*

He had been involved in this life for about one year before he was arrested in connection with a drive by shooting in which he allegedly shot at a group of people from a car window. No one was injured in the shooting.

2. Conviction and Sentencing

Guadalupe was charged with six counts of first degree assault, one count of drive by shooting, and one count of second degree unlawful possession of a firearm. App. 1 (Guadalupe Solis Diaz Warrant of Commitment; Felony Judgment & Sentence). He was declined automatically to adult court. It was his first experience with the adult criminal justice system. App. 2 at 1-2. He did not understand the proceedings and was confused throughout. *Id.* At one point, he was offered a plea deal but did not understand what it meant or how to proceed. *Id.* at 2. He asked for time to consult with his family, but was told he had one night to make a decision. *Id.* He went to trial and was convicted by jury on all counts. App. 1. Though he had no adult criminal record and no one was injured in the shooting, he received the highest end of the standard range for each count, with six of the eight counts and the firearms enhancements to run consecutively, and the two lesser counts to run concurrently. *See id.* His sentencing hearing was brief and no one spoke on his behalf. *See* App. 3 (Verbatim report of sentencing

proceedings for Guadalupe Solis Diaz). He was sentenced to 1,111 months, or 92.58 years, in prison.¹

Guadalupe appealed the conviction based on ineffective assistance of counsel and trial court error in (1) excluding expert testimony on heuristic reasoning, (2) limiting cross-examination of a witness on an unrelated plea agreement, (3) permitting the State to question a witness about who was present in the courtroom during trial, and (4) denying his motion in limine to exclude all evidence of gang affiliation. On October 13, 2009, the Court of Appeals, Division Two, affirmed the trial court's decision in Cause No. 37120-1-II.

A Petition for Review was filed on November 13, 2009 and denied on March 30, 2010. The Mandate was issued on May 4, 2010. This is Guadalupe's first Personal Restraint Petition.

3. Prison

After sentencing, Guadalupe spent some time at Green Hill School, part of the Juvenile Rehabilitation Administration. App. 2 (Decl. of Guadalupe Solis Diaz at 2). There, he was able to talk to counselors and for the first time confronted some issues in his life. *Id.* However, when he turned 18 he was transferred to Stafford Creek and later to Washington State Penitentiary, where he remains today. *Id.*

¹ His co-defendant, Juan Alberto Velasquez, who was 21 at the time of the crime, was apprehended in 2008 and received a prison term of 12.5 years. See App. 7 (Judgment and Sentence of Juan Alberto Velasquez).

He is 20 years old and has been incarcerated since he was arrested at age 17. App. 2 at 1. He has found prison life difficult. *Id.* at 2. Despite the prison environment and the particular difficulties he faces as a young person in prison, he has tried to avoid the drama and to better himself. *See id.* He earned his GED in 2009 and is currently enrolled in a graphic design program. *Id.* However, the fact that he will spend the rest of his life behind bars has been depressing and difficult to accept. *Id.* His mother and sisters visited him while he was in Green Hill, but have not visited since he was transferred to his current location. *Id.* No one has visited him since 2008. *Id.*

IV. GROUNDS FOR RELIEF

Guadalupe is entitled to relief from restraint pursuant to RAP 16.4(c)(2) and (4) because his sentence constitutes cruel and unusual punishment in violation of the Eight Amendment to the United States Constitution and article I, section 14 of the Washington State Constitution, and there has been a significant change in the law which is material to his sentence. Guadalupe was sentenced to die in prison for a non-homicide offense committed when he was a juvenile. He will have no meaningful opportunity for release. His restraint is unconstitutional pursuant to *Graham vs. Florida* and his sentence should be vacated. In addition, Guadalupe is entitled to relief from restraint pursuant to RAP 16.4(c)(1) because his counsel was ineffective at sentencing for failing to request an

exceptional sentence downward based on *In re Mulholland*, 161 Wash.2d 322, 166 P.3d 677 (2007).

V. ARGUMENT

A. GUADALUPE'S 92-YEAR SENTENCE, IMPOSED FOR A NON-HOMICIDE CRIME COMMITTED WHEN HE WAS A JUVENILE, PROVIDES NO MEANINGFUL OPPORTUNITY FOR RELEASE AND IS THUS INCONSISTENT WITH THE RATIONALE BEHIND THE SUPREME COURT'S DECISION IN *GRAHAM V. FLORIDA* AND CONSTITUTES CRUEL AND UNUSUAL PUNISHMENT IN VIOLATION THE EIGHTH AMENDMENT

1. Guadalupe's Sentence Is Cruel And Unusual Punishment Because It Provides No Meaningful Opportunity For Release And Condemns Him To Die In Prison For A Non-Homicide Crime Committed When He Was A Juvenile

Guadalupe's 92-year sentence, imposed in a state with no parole system, ensures that he will die in prison. Like an offender serving a sentence of "life without parole," Guadalupe has no meaningful opportunity for release based on demonstrated maturity and rehabilitation. In fact, he has no realistic opportunity of ever being released for *any* reason. Because Washington does not have a parole system, the only opportunities for Guadalupe to be released in his lifetime are those set forth in sections (1) through (8) of RCW 9.94A.728.² None of these

² RCW 9.94A.728, Release prior to expiration of sentence, provides in part: "No person ...shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows: (1) An offender may earn early release time as authorized by RCW 9.94A.729; (2) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers; (3)(a) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist: (i) The offender has a medical condition that is serious and is expected to require costly care or treatment; (ii) The offender poses a low risk to the

provide a meaningful opportunity for release, never mind a meaningful opportunity for release based on demonstrated maturity and rehabilitation.

Subsection (1), accrual of early release time as authorized by RCW 9.94A.729, does not provide Guadalupe with any opportunity of release within his lifetime. Because the amount of early release he can accrue is limited by subsections (2) and (3) of RCW 9.94A.729, based on the firearms enhancements and serious violent felonies, the maximum amount of early release time he can accrue is 75.1 months.³ This leaves him with a minimum sentence of 86.325 years. He will not see his early release date unless he lives to age 103. Likewise, several other provisions would not reduce Guadalupe's sentence by any significant amount, assuming he ever benefited from them at all. *See* subsection (2) (furloughs and leaves of absence), subsection (5) (partial confinement during final six or twelve months of sentence), and subsection (7) (release ten days early).

community because he or she is currently physically incapacitated due to age or the medical condition or is expected to be so at the time of release; and (iii) It is expected that granting the extraordinary medical placement will result in a cost savings to the state... (4) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;...(6) The governor may pardon any offender; (7) The department may release an offender from confinement any time within ten days before a release date calculated under this section; (8) An offender may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870

³ Guadalupe was sentenced to 1,111 months, including 60 months in firearms enhancements for each of six counts of first degree assault (pursuant to RCW 9.94A.533). Pursuant to RCW 9.94A.729(2), he cannot receive any earned release time for the 360 months in firearms enhancements. Pursuant to RCW 9.94A.729(3)(b), as someone convicted of a serious violent offense, his aggregate earned release time may not exceed ten percent of his sentence. Therefore, the minimum term of confinement he will serve is 1,035.9 months, or 86.325 years.

This leaves four provisions which constitute Guadalupe's only hope of ever reentering society: subsections (3) extraordinary medical placement, (4) governor's extraordinary release, (6) governor's pardon, and (8) emergency measures due to overcapacity. The chance that Guadalupe will benefit from any of these provisions is so remote that they cannot be considered meaningful opportunities for release, and they are certainly not opportunities based on maturity and rehabilitation. Furthermore, similar prospects were available to Terrance Graham and were not sufficient to render his life sentence constitutional. For example, Florida Statute section 947.149 provides for conditional medical release; twenty inmates were released under the provision in the 2008 to 2009 fiscal year. App. 4 (Florida Department of Corrections, Senate Criminal Justice Committee, *Report on Conditional Medical Release* (November 4, 2009)). In *Graham*, the Court recognized the negligible value of such prospects, remarking that a life sentence "deprives the convict of the most basic liberties without giving hope of restoration, except perhaps by executive clemency – the remote possibility of which does not mitigate the harshness of the sentence." 560 U.S. at ___, 130 S. Ct. at 2027.

The Court in *Graham* also noted the "severity of sentences that deny convicts the possibility of parole." *Id.* In *Rummel v. Estelle*, 445 U.S. 263, 100 S. Ct. 1133, 63 L. Ed. 2d 382 (1980), the Court upheld the defendant's life sentence for his third nonviolent felony, but stressed that

he had the possibility of parole in approximately twelve years. Thus, the analysis of his sentence “could hardly ignore the possibility that he will not actually be imprisoned for the rest of his life.” *Id.* at 280-81. Here, Guadalupe has absolutely no possibility of parole and will actually be imprisoned for the rest of his life. His sentence “guarantees he will die in prison without any meaningful opportunity to obtain release, no matter what he might do to demonstrate that the bad acts he committed as a teenager are not representative of his true character...” *See Graham*, 560 U.S. at ___, 130 S. Ct. at 2033.

2. Sentencing A Juvenile Non-Homicide Offender To 92 Years In Prison With No Meaningful Opportunity For Release Is Inconsistent With The Supreme Court’s Rationale In *Graham v. Florida*

a. In Light Of Their Diminished Culpability, Juveniles Should Not Be Sentenced To Die In Prison For Non-Homicide Crimes

Because he was convicted of a non-homicide crime, and because juveniles are not as culpable as adults, Guadalupe should not be subjected to the severe penalty of dying in prison. One of the key considerations in the *Graham* Court’s decision was “the culpability of the offenders at issue in light of their crimes and characteristics, along with the severity of the punishment in question.” 560 U.S. at ___, 130 S. Ct. at 2026. The Court determined that juvenile non-homicide offenders are less culpable than adults and therefore should not be sent away for life with no chance to

demonstrate rehabilitation. *Id.* at ___, 130 S. Ct. at 2030. The Court noted that juveniles lack maturity, have “an underdeveloped sense of responsibility,” and “are more vulnerable to negative influences and outside pressures, including peer pressure.” *Id.* at ___, 130 S. Ct. at 2026 (citing *Roper v. Simmons*, 543 U.S. 551, 569-70, 125 S. Ct. 1183, 161 L. Ed. 2d 1 (2005)) (internal quotation marks omitted). In addition, “juveniles are more capable of change than are adults, and their actions are less likely to be evidence of ‘irretrievably depraved character’ than are the actions of adults.” *Id.* (citing *Roper*, 543 U.S. at 570).

This analysis applies no less to Guadalupe than it does to Terrance Graham or other juveniles sentenced to “life without parole.” Guadalupe was just 16 at the time of the crime. As a young person, he was more vulnerable to peer pressure and other negative influences. *See Graham*, 560 U.S. at ___, 130 S. Ct. at 2026. He was drawn into gang activities by older cousins, and his co-defendant was five years older than him and an adult the time of the crime. *See App. 2 at 1; App. 7.* Guadalupe also lacked the maturity to adequately deal with issues that confronted him at home, such as his mother’s drinking problem. *App. 2 at 1.* In addition to being less culpable than an adult, he is also “more capable of change” and his actions at age 16 “are less likely to be evidence of ‘irretrievably depraved character...’” *Graham*, 560 U.S. at ___, 130 S. Ct. at 2026. For Guadalupe to be locked up for the rest of his life with no opportunity to ever

demonstrate that he has changed defies the rationale underlying the Supreme Court's decision in *Graham*.

In *Graham*, the Court also recognized the "special difficulties encountered by counsel in juvenile representation." *Id.* at ___, 130 S. Ct. at 2032. Among other issues, the Court recognized that "[j]uveniles...have limited understandings of the criminal justice system and the roles of the institutional actors within it" and that "[d]ifficulty in weighing long-term consequences; a corresponding impulsiveness; and reluctance to trust defense counsel...all can lead to poor decisions by one charged with a juvenile offense." *Id.* Guadalupe's case is illustrative of these difficulties. He had an extremely limited understanding of the criminal justice system and was confused throughout the trial. App. 2 at 2. He did not fully understand the plea deal that was offered to him, and he did not realize that he could receive such a severe sentence for the crimes he was charged with. *Id.* No doubt Guadalupe's youthful ignorance of the system and his difficulty in weighing long-term consequences made the process confusing for him and difficult for his defense counsel. Acknowledging the detrimental effect of these types of problems, the Court in *Graham* decided that a categorical ban was necessary in order to protect youthful offenders from subjective decisions by juries and judges that they are sufficiently culpable to be locked up forever. *Graham*, 560 U.S. at ___, 130 S. Ct. at 2032.

b. None Of The Penological Goals Justify Sentencing
Guadalupe To Die In Prison For A Non-Homicide Crime
Committed When He Was A Juvenile

Allowing Guadalupe to spend the rest of his days in prison for a non-homicide crime committed when he was a child does not further any legitimate penological aims. In reaching its decision in *Graham*, the Court asked “whether the challenged sentencing practice serves legitimate penological goals” and found that none of those goals – retribution, deterrence, incapacitation or rehabilitation – were adequate to justify life without parole for juvenile non-homicide offenders. *Id.* at ___, 130 S. Ct. at 2026-30. The same rationale applies to the sentence here.

First, the penological goal of retribution cannot justify sentencing a child to spend the rest of his life in prison for a non-homicide crime. *Id.* at ___, 130 S. Ct. at 2028. “[A] criminal sentence must be directly related to the personal culpability of the criminal offender.” *Id.* (internal citations omitted). Though Guadalupe was convicted of a serious crime, *Graham* makes clear that juveniles are less blameworthy than adults, for all the reasons discussed above, and so “the case for retribution is not as strong with a minor as with an adult.” *Id.* Therefore, in the case of a non-homicide crime, retribution cannot justify imposing the most severe sentence possible for a juvenile – spending the rest of his life in prison.

Likewise, deterrence does not justify this sentence any more than it justifies “life without parole.” “[T]he same characteristics that render

juveniles less culpable than adults suggest . . . that juveniles will be less susceptible to deterrence.” *Id.* (citing *Roper*, 543 U.S. at 571). This is even more so when a punishment is rarely imposed. *Id.* It is unlikely that the rare imposition of a 92-year sentence for a juvenile non-homicide offender in Washington will deter other juveniles from committing the same crime. *See* App. 6 (Dec. of Beth Colgan at 2). And even if there were a slight deterrent effect, it would not be sufficient to overcome the fact that the punishment is disproportionate to the crime. *Graham*, 560 U.S. at ___, 130 S. Ct. at 2029.

The goal of incapacitation also fails to justify Guadalupe’s sentence because it rests on an assumption that he “forever will be a danger to society” – an assumption that the *Graham* Court found unsound. *Id.* Because “[i]t is difficult even for expert psychologists to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption,” states may not decide at sentencing that a juvenile is incorrigible. *Id.* (citing *Roper*, 543 U.S. at 573). The Court found that Terrance Graham “deserved to be separated from society for some time” due to his crimes, but rejected the assumption that he would always be a risk to society. *Graham*, 560 U.S. at ___, 130 S. Ct. at 2029. Similarly, the fact that Guadalupe was convicted for a crime committed when he was 16 does not mean that he will be a risk to society for the rest of his life. Due

to Washington's sentencing scheme, Guadalupe's sentencing judge was constrained and could not have taken Guadalupe's youthfulness into account even if he had wanted to. A sentencing scheme that rests on the faulty assumption that a juvenile offender will forever be dangerous is contrary to *Graham's* logic.

Finally, the goal of rehabilitation does not support Guadalupe's sentence because the rehabilitative ideal is wholly abandoned in sentencing a juvenile to spend the rest of his life in prison. *See id.* at ___, 130 S. Ct. at 2030. By imposing such a sentence, "the State makes an irrevocable judgment about that person's value and place in society. This judgment is not appropriate in light of a juvenile non-homicide offender's capacity for change and limited moral culpability." *Id.* Like a youth sentenced to "life without parole," Guadalupe will grow up and die in prison. Regardless of whether it is called "life without parole" or "1,111 months," a sentence that condemns a juvenile to spend his life in prison "means denial of hope; it means that good behavior and character improvement are immaterial; it means that whatever the future might hold in store for the mind and spirit of [the convict], he will remain in prison for the rest of his days." *See id.* at ___, 130 S. Ct. at 2027 (citing *Naovarath v. State*, 105 Nev. 525, 526, 779 P.2d 944 (1989)). This outcome completely eviscerates the rehabilitative ideal and is precisely the result that the *Graham* Court sought to prevent.

3. Guadalupe Should Be Provided With A Meaningful Opportunity For Release Based On Demonstrated Maturity And Rehabilitation

As a juvenile non-homicide offender, Guadalupe warrants a meaningful opportunity to demonstrate that he has matured and reformed. While states are not required to guarantee eventual freedom to juvenile non-homicide offenders, they must provide “some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.” *Id.* at ___, 130 S. Ct. at 2030. While *Graham* leaves open the possibility that some such offenders will remain imprisoned for life, it “forbids States from making the judgment at the outset that [they] never will be fit to reenter society.” *Id.*

The Court stated that its ruling “gives *all* juvenile nonhomicide offenders a chance to demonstrate maturity and reform.” *Id.* at ___, 130 S. Ct. at 2032 (emphasis added). Guadalupe’s sentence, like “life without parole,” provides “no chance for fulfillment outside prison walls, no chance for reconciliation with society, no hope.” *See id.* He “should not be deprived of the opportunity to achieve maturity of judgment and self-recognition of human worth and potential.” *See id.* As the Court recognized in *Graham*, the great majority of juveniles who commit non-homicide crimes are not beyond repair. They often commit crimes because they are easily influenced and lack the maturity and foresight to appreciate the consequences of their actions. Most can be rehabilitated. As they grow,

they mature, and “[m]aturity can lead to that considered reflection which is the foundation for remorse, renewal, and rehabilitation.” *Id.*

The purpose of the Court’s holding in *Graham* was to prevent states from deciding “at the outset” that a juvenile non-homicide offender will never be fit to reenter society. *Id.* at ___, 130 S. Ct. at 2030. To give effect to that purpose, the Court requires states to provide such offenders with a meaningful opportunity for release based on demonstrated maturity and rehabilitation. *Id.* This requirement is meaningless if states can simply replace sentences of “life without parole” with term of years sentences that deny all possibility of release.

**B. GUADALUPE’S SENTENCE CONSTITUTES CRUEL
PUNISHMENT UNDER ARTICLE I, SECTION 14 OF
WASHINGTON’S STATE CONSTITUTION**

**1. Article I, Section 14 Is More Protective Than The
Eighth Amendment**

Article I, section 14 of the Washington Constitution provides that “Excessive bail shall not be required, excessive fines imposed, nor cruel punishment inflicted.” The Washington Supreme Court has concluded that article I, section 14 provides greater protections than the Eighth Amendment’s Cruel and Unusual Punishments Clause, which prohibits only punishments that are both cruel *and* unusual. *See, e.g., State v. Manussier*, 129 Wn.2d 652, 674, 921 P.2d 473 (1996) (citing *State v. Fain*, 94 Wn.2d 387, 393, 617 P.2d 720 (1980)). In

reaching that conclusion, the Court noted the difference in language between the state and federal provisions and the fact that the framers of article 1, section 14 “were of the view that the word ‘cruel’ sufficiently expressed their intent, and refused to adopt an amendment inserting the word unusual.” *Fain*, 94 Wn.2d at 393 (internal quotation marks omitted). Because the Court has found the state provision to be more protective than its federal counterpart, a *Gunwall*⁴ analysis is not necessary; instead, the court should “apply established principles of state constitutional jurisprudence.” *See State v. Roberts*, 142 Wn.2d 471, 506 n.11, 14 P.3d 713 (2000).

To determine whether a sentence violates article I, section 14, the court considers four factors: (1) the nature of the offense, (2) the legislative purpose behind the statute, (3) the punishment the defendant would have received in other jurisdictions, and (4) the punishment meted out for other offenses in the same jurisdiction. *Fain*, 94 Wn.2d at 397-98, 401 n.7.

**2. An Analysis Of The Fain Factors Demonstrates That
Guadalupe’s 92-Year Sentence Violates Article I,
Section 14 Of The Washington Constitution**

An analysis of the Fain factors reveals that the imposition of a 92-year sentence for a non-homicide crime committed when

⁴ *State v. Gunwall*, 106 Wn.2d 54, 61-62, 720 P.2d 808 (Wash. 1986).

Guadalupe was 16 years old constitutes cruel punishment in violation of article I, section 14 of the state constitution.

a. The Nature Of The Offense

When conducting a state proportionality analysis, courts first look to the nature of the offense. *Fain*, 94 Wn.2d at 397. Guadalupe's offense, though serious, does not warrant a sentence of 92 years when no one was injured and other offenders have been sentenced to far less time for much more heinous conduct. To provide just a few examples, Guadalupe is serving almost twice as much time as Gordon Hammock, who received less than 50 years for beating his friend with a hammer for five hours before strangling him to death.⁵ He is serving almost three times as long as David Pillatos and Scotty Butters, who were convicted of beating a homeless man to death with baseball bats and steel-toed shoes as part of their initiation into a white supremacist group.⁶ And Guadalupe is serving almost four times as long as Juan Carlos Bonilla, who received just 23.5 years for stabbing his wife to death with a barbeque fork in front of her children.⁷

⁵ Man Sentenced In Brutal Murder Of His Friend (February 27, 2008), <http://www.kirotv.com/news/15431891/detail.html>.

⁶ Two sentenced for murder of homeless man (April 13, 2007), <http://www.komonews.com/news/local/7020242.html>

⁷ Seattle man sentenced for stabbing death of estranged wife (August 21, 2009) http://seattletimes.nwsouce.com/html/localnews/2009702851_bonillasentencing21m.htm 1 (last accessed May 3, 2011).

There is no doubt that Guadalupe's offense was serious and presented a real risk of harm, but ultimately no one was killed or even injured in the incident. The result of an offense is an important factor in determining its gravity. *See, e.g., Graham*, 560 U.S. ___, 130 S. Ct. at 2027 (recognizing that even serious non-homicide crimes cannot be compared to homicide in their "severity and irrevocability"). This results-oriented focus is evident in the punishment of a wide range of offenders in Washington. *See App. 5 (Statistical Summary of Adult Felony Sentencing Fiscal Year 2010, State of Washington, Sentencing Guidelines Commission (Jan. 2011))* (average sentences: hit-and-run with injury: 27.7 months/ hit-and-run with death: 65.4 months; driving under the influence: 36.4 months/ vehicular homicide-drunk: 64.7 months; child molestation 1-solicitation: 38.3 months/ child molestation 1: 92.5 months; Rape 1-attempt: 72.0 months; Rape 1: 198.7 months).

It is also important to note that this crime could have been charged differently due to prosecutorial discretion – for example, as assault in the second degree or drive-by shooting (with no accompanying assault charges). *See, e.g., State v. Bluehorse*, 159 Wash. App. 410, 248 P.3d 537 (2011) (one count of drive-by shooting with gang aggravator for drive-by in which someone was shot; vacating exceptional sentence for gang aggravator and remanding for

resentencing in standard range). Had he been charged differently, Guadalupe could have faced a much lighter sentence. However, because he was charged with six counts of assault in the first degree (each subject to a firearms enhancement) in addition to drive-by shooting and unlawful possession, his presumptive sentence range was extremely high.

b. The Legislative Purpose

Next, courts look to see whether the legislative purpose is served by the sentence at issue. *Fain*, 94 Wn.2d at 397-98. As part of this analysis, courts may consider whether the legislative purpose can be equally served by a less severe punishment.⁸ Punishment is imposed for one or more of the following reasons: deterrence, retribution, incapacitation, or rehabilitation. Unless a sentence makes a measurable contribution to one of the acceptable goals of punishment, it is "is nothing more than the purposeless and needless imposition of pain and suffering." *Coker v. Georgia*, 433 U.S. 584, 592, 97 S. Ct. 2861, 53 L. Ed. 2d 982 (1977).

The purpose of the Sentencing Reform Act is to: "(1) Ensure that the punishment for a criminal offense is proportionate to the seriousness of the offense and the offender's criminal history; (2) Promote respect for the

⁸ The Washington Supreme Court has noted that this latter standard should be employed with caution to give legislative judgments the greatest possible deference. However, legislative authority is "ultimately circumscribed by the constitutional mandate forbidding cruel punishment." *Fain*, 94 Wn.2d at 401 n.7, 402.

law by providing punishment which is just; (3) Be commensurate with the punishment imposed on others committing similar offenses; (4) Protect the public; (5) Offer the offender an opportunity to improve him or herself; (6) Make frugal use of the state's and local governments' resources; and (7) Reduce the risk of reoffending by offenders in the community.” RCW 9.94A.010.

In Guadalupe’s case, the resulting presumptive sentence was clearly excessive. Rather than furthering the legislative purpose, his sentence fails to fulfill even one of the legislative goals listed above. First, Guadalupe’s punishment is disproportionate both to his offense, as discussed above, and to his criminal history. His juvenile history consisted solely of two minor offenses. He had no adult criminal history. Next, Guadalupe’s sentence is not commensurate with the punishment imposed on others for the same conduct (see discussion below), and it is unlikely that such a rare and extreme sentence will reduce the risk of reoffending by offenders in the community or promote respect for the law. Furthermore, keeping Guadalupe locked up for 92 years is an enormous expenditure of state resources that is not justified by any legislative goal. Finally, this sentence, which ensures Guadalupe will take his last breath in prison, entirely ignores the legislature’s desire to encourage offender improvement.

This conclusion is supported by expressions of legislative intent regarding the sentencing of juveniles. For example, the legislature has shielded juveniles tried as adults from the mandatory minimum terms for sex offenses under RCW 9.94A.507. RCW 9.94A.507(1)(d). Similarly, the legislature has eliminated the application of mandatory minimum sentences under RCW 9.94A.540 for juveniles tried as adults. RCW 9.94A.540, Findings -- Intent -- 2005 c 437(2). In the latter case, the legislature made the following findings: (1) "emerging research on brain development indicates that adolescent brains, and thus adolescent intellectual and emotional capabilities, differ significantly from those of mature adults," (2) "It is appropriate to take these differences into consideration when sentencing juveniles tried as adults," and (3) "applying mandatory minimum sentences for juveniles tried as adults prevents trial court judges from taking these differences into consideration in appropriate circumstances." RCW 9.94A.540, Findings -- Intent -- 2005 c 437(1).

c. The Punishment Guadalupe Would Have Received In Other Jurisdictions For The Same Offense

The third factor in the analysis, the penalty Guadalupe would have received in other jurisdictions, also supports a finding that his sentence constitutes cruel punishment. In other jurisdictions, Guadalupe could have received a much lighter sentence. For example,

in Oregon, the firearms enhancements are not as harsh and judges are not required to apply them to juveniles tried as adults.⁹ Due to the time constraints on filing this petition, a thorough statistical analysis is not possible. However, the fact that Guadalupe could have received a much shorter sentence in other jurisdictions combined with the fact that offenders in other jurisdictions have received much lighter sentences for similar conduct supports the conclusion that his sentence is cruel.

d. The Punishment Meted Out For Other Offenses In Washington

An analysis of the fourth Fain factor, punishment for other offenses in Washington, also demonstrates that Guadalupe's sentence constitutes cruel punishment. He is going to spend the rest of his life in prison while many offenders who committed worse crimes as adults will eventually be released.

In Washington, during the 2010 fiscal year, nine people were sentenced for aggravated first degree murder; eight received life sentences and one was sentenced to death. App. 5 at 2. Additionally,

⁹ Oregon Revised Statute §161.610(g) provides in part that "When a defendant who is convicted of a felony having as an element the defendant's use or threatened use of a firearm during the commission of the crime is a person who was waived from juvenile court under ORS 137.707 (Adult prosecution of 15-, 16- or 17-year-old offenders) (5)(b)(A), 419C.349 (Grounds for waiving youth to adult court), 419C.352 (Grounds for waiving youth under 15 years of age), 419C.364 (Waiver of future cases) or 419C.370 (Waiver of motor vehicle, boating, game, violation and property cases), the court is not required to impose a minimum term of imprisonment under this section."

29 people were sentenced for first degree murders committed after 7/24/99; their average sentence was 41 years. *Id.* at 8. For a non-homicide crime committed when he was 16 years old, Guadalupe is serving 92 years, meaning he is serving more than twice the average sentence for adults who committed first degree murder. And because he will spend the rest of his life in prison, he is being punished as severely as an adult who committed the worst possible crime – aggravated first degree murder.

Further, while a life sentence may also be imposed for assault in the first degree, RCW 9A.20.021(1)(a); RCW 9A.36.011(2), such a sentence is extremely rare in practice. Of the 81 people sentenced for assault in the first degree in the 2010 fiscal year, only three received life sentences.¹⁰ App. 5 at 2.

Furthermore, Guadalupe's sentence is much harsher than sentences imposed for drive-by shootings throughout Washington state. For example, Guadalupe's co-defendant received 12.5 years and will be released 80 years before Guadalupe reaches his early release date. App. 7. Kevin Franklin received 16.6 years for a drive-by shooting. App. 8 (Judgment & Sentence of Kevin Franklin). Carlos Cardenas was sentenced to 15 years for firing on eight people,

¹⁰ Since juveniles can only be sentenced to life without parole for aggravated first degree murder, the three people sentenced to life for assault in the first degree must have committed their crimes as adults.

including three children, during a drive-by.¹¹ Ricardo Casares was sentenced to ten years for shooting at three people during a drive-by.¹² Jesus Palacio Fuentes received just one year and eight months for his role as the driver in a gang related shooting at an apartment complex “in the middle of the day at a place where families live and children are outside.”¹³ Fuentes’ co-defendant Ismael Bazan Jr., the shooter, received an even lighter sentence of just 15 months.¹⁴

Even offenders who have killed and/or injured victims in drive-by shootings have received far less time than Guadalupe. Gonzalo Cruz received 14 years and Fidel Diaz received 13 years for a drive-by shooting during which both men fired shots at a car, hitting one man in the neck with a bullet.¹⁵ Sauni Misi received a 15-year sentence for a road-rage incident in which he fired into a car containing three people.

¹¹*VALLEY: Sunnyside teens get stiff sentences in drive-by*, <http://www.tricityherald.com/2011/04/12/1447652/valley-sunnyside-teens-get-stiff.html#ixzz1LH62lxFp> (last accessed May 3, 2011).

¹²*Ricardo Casares Sentenced to 10 Years for Drive by Shooting* <http://www.ci.sunnyside.wa.us/news/10-6095Sentencing.htm> (last accessed May 3, 2011).

¹³*Pasco teen gets prison sentence for role in drive-by*, <http://www.tricityherald.com/2010/09/16/1171178/pasco-teen-gets-prison-sentence.html> (last accessed May 3, 2011).

¹⁴*Teen gets 15 months for drive-by shooting*, <http://www.bellinghamherald.com/2010/11/10/1713930/teen-gets-15-months-for-drive.html> (last accessed May 3, 2011).

¹⁵*Drive-by shooter sentenced to 14 years in prison*, <http://www.wenatcheeworld.com/news/2010/nov/05/drive-by-shooter-sentenced-to-14-years-in-prison/> (last accessed May 3, 2011).

One of the occupants, a two-year-old girl, was hit and injured.¹⁶ Luis Mejia Nunez was sentenced to 15 years for firing at three men in a gang related shooting, injuring one person and killing a 17-year-old.¹⁷

The cruelty of Guadalupe's sentence is even more apparent when one compares it to the penalties imposed on other juveniles sentenced as adults. The only offenders serving life imprisonment in Washington for crimes committed as juveniles were convicted of aggravated first degree murder. App. 6 at 2. Guadalupe is one of only two offenders in the entire state serving more than 90 years for a *non-homicide* crime committed as a juvenile. *Id.*

According to the Washington Supreme Court, the scope of proportionality is not static and "must draw its meaning from the evolving standards of decency that mark the progress of a maturing society." *Fain*, 94 Wn.2d at 397. As such, the court should take into account the U.S. Supreme Court's decision in *Graham* as evidence of society's continuing trend toward less severe punishments for juvenile offenders. Ultimately, it is "the consistency of the direction of change" that is significant in determining whether a sentence is unconstitutional. *Atkins v. Virginia*, 536 U.S. 304, 347, 122 S. Ct.

¹⁶*Road rage shooting brings 15-year term*, <http://www.thenewtribune.com/2011/04/30/v-lite/1646680/tacoma-road-rage-shooting-brings.html> (last accessed May 3, 2011).

¹⁷*Mattawa drive-by shooter sentenced* http://www.columbiabasinherald.com/news/article_d0bebe08-3baf-11e0-a40b-001cc4c002e0.html (last accessed May 3, 2011).

2242, 153 L. Ed. 2d 335 (2002); accord *Roper v. Simmons*, 543 U.S. 551, 565-66, 125 S. Ct. 1183, 161 L. Ed. 2d 1 (2005) (finding juvenile death penalty unconstitutional despite small number of states recently abolishing it).

An application of the *Fain* factors to Guadalupe's sentence establishes that it constitutes cruel punishment. Guadalupe received a sentence far more severe than many offenders who committed atrocious murders as adults, despite the fact that his offense was committed when he was 16 years old and he did not injure anyone. His sentence is also much more severe than sentences imposed for similar conduct in this and other jurisdictions. As a purposeless and needless imposition of pain and suffering, this sentence constitutes cruel punishment in violation of article I, section 14.

C. GUADALUPE WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL WHERE HIS COUNSEL FAILED TO CITE APPLICABLE CASE LAW AND FAILED TO REQUEST AN EXCEPTIONAL SENTENCE DOWNWARD FOR MULTIPLE OFFENSES ARISING OUT OF ONE DRIVE BY SHOOTING INCIDENT

The Sixth Amendment provides: "In all criminal prosecutions, the accused shall enjoy the right ... to have the Assistance of Counsel for his defense." "[C]ompliance with this constitutional mandate is an essential jurisdictional prerequisite to a federal court's authority to deprive an accused of his life or liberty." *Johnson v. Zerbst*, 304 U.S. 458, 467, 58

S.Ct. 1019, 82 L.Ed. 1461 (1938). The right applies with equal force in state courts. *Gideon v. Wainwright*, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963).

In *Strickland v. Washington*, 466 U.S. 668, 687 (1984) the United States Supreme Court held that “the proper standard for attorney performance is that of reasonably effective assistance.” The Court further held that, to sustain a claim of ineffective assistance of counsel, the defendant must show: 1) that counsel’s performance was deficient, and 2) that the deficient performance prejudiced the defense. *See also State v. Thomas*, 109 Wn.2d 222, 743 P.2d 816 (1987).

In *re Mulholland*, 161 Wash.2d 322, 166 P.3d 677 (2007), the Washington Supreme Court affirmed the decision of the Court of Appeal Division Two granting Mr. Mulholland’s personal restraint petition holding that the sentencing court had discretion to order that multiple sentences for serious violent offenses run concurrently as a mitigated exceptional sentence. The Court found that the sentencing court’s failure to recognize that it had discretion to impose concurrent sentences was a fundamental defect. *Id.* at 683.

Exactly like Mr. Mulholland, Guadalupe received a lengthy sentence as a result of consecutive sentences that arose out of one drive by shooting incident where no one was hurt. Although this recently decided case addressed an almost identical sentencing issue, counsel for

Guadalupe did not request an exceptional sentence or advise the judge that he had discretion to impose an exceptional sentence pursuant to *In re Mulholland*. App. 3 at 6. In his extremely brief argument to the court, counsel argued for the low end of the standard range, but failed to mention anything about the court's ability to impose a mitigated exceptional sentence by running the counts concurrently. *Id.* The only real challenge to the prosecutor's recommended sentence was made by the judge himself, when he raised the issue of whether the drive-by shooting was encompassed within the same criminal conduct as the assaults. App. 3 at 6. In fact, the judge raised the issue on behalf of Guadalupe after counsel had already agreed with the State's calculation of his sentencing range. *Id.* at 3. Counsel subsequently jumped on board with the court's argument to the benefit of his client on that issue. *Id.* at 5.

This performance was clearly deficient. *State v. McGill*, 112 Wash.App. 95, 47 P.3d 173 (Div. 1 2002)(Counsel's failure to cite case law and argue for an exceptional sentence downward based on the multiple offense policy of RCW 9.94A.535(1)(g) was ineffective). It was particularly egregious where his teenage client was facing a sentence that would put him in prison for life. Counsel not only failed to raise applicable case law that would offer his client a less severe sentence, he was mistaken about the application of the sentencing guidelines, an issue the judge had to raise on the defendant's behalf. App. 3 at 3. Counsel offered

minimal argument, did not prepare a presentence report and presented no favorable testimony on behalf of Guadalupe – not a parent or a family member—before agreeing with the State that his client could be sentenced to die in prison.

Clearly, counsel's ineffective performance prejudiced Guadalupe. It is not necessary for Guadalupe to demonstrate that the court would have imposed a different sentence to receive relief: "[w]here the appellate court 'cannot say that the sentencing court would have imposed the same sentence had it known an exceptional sentence was an option,' remand is proper." *In re Mulholland* citing *State v. McGill*, 161 Wash. 2d at 334. Here, the judge demonstrated a desire to run at least two of the counts concurrently. App. 3 at 6. It is unknown whether the court would have imposed an exceptional sentence and run other counts concurrently because counsel never raised the issue. "A trial court cannot make an informed decision if it does not know the parameters of its decision-making authority. Nor can it exercise its discretion if it is not told it has discretion to exercise." *State v. McGill*, 112 Wash.App. at 177.

Guadalupe's counsel's performance fell below an objective standard of reasonableness. He was denied his constitutional right to effective assistance of counsel and he is entitled to be re-sentenced. Even if the court fails to find a constitutional error, the sentencing court's failure to consider the possibility of imposing a concurrent sentence based on

mitigated circumstances is a fundamental defect which results in a complete miscarriage of justice and justifies relief. RAP 16(c)(2); *In re Mullholland*, 161 Wash. 2d at 332-33.

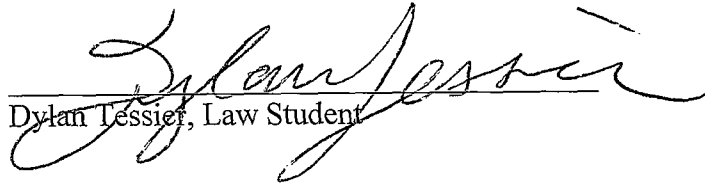
VI. CONCLUSION

Guadalupe is serving one of the two longest sentences imposed on a juvenile for a non-homicide crime in Washington. No less than Terrance Graham's sentence of life imprisonment, Guadalupe's sentence of more than 92 years guarantees that he will die in prison without "any chance to later demonstrate that he is fit to rejoin society based solely on a non-homicide crime that he committed while he was a child in the eyes of the law." *Graham*, 560 U.S. ___, 130 S. Ct. at 2033. Such an extreme sentence constitutes cruel punishment under article I, section 14 of the Washington Constitution and cruel and unusual punishment under the Eighth Amendment. In addition, Guadalupe is entitled to re-sentencing because his counsel was ineffective for failing to advise the sentencing judge of applicable case law that could justify an exceptional sentence. For the reasons stated above, Guadalupe respectfully requests that this Court grant his Personal Restraint Petition and remand his case for re-sentencing to provide a sentence that is proportionate to his offense and provides a meaningful opportunity for release based on demonstrated maturity and rehabilitation.

Respectfully submitted this 3rd day of May, 2011.

A handwritten signature in black ink, appearing to read "Kim Ambrose", written over a horizontal line.

Kim Ambrose, WSBA # 19258
Attorney for Guadalupe Solis Diaz

A handwritten signature in black ink, appearing to read "Dylan Tessier", written over a horizontal line.

Dylan Tessier, Law Student

INDEX TO APPENDICES

1	Judgment & Sentence/Warrant of Commitment of Guadalupe Solis Diaz
2	Declaration of Guadalupe Solis Diaz A. Declaration of Dylan Tessier regarding declaration of Guadalupe Solis Diaz
3	Verbatim report of sentencing proceedings for Guadalupe Solis Diaz
4	Florida Department of Corrections, Senate Criminal Justice Committee, Report on Conditional Medical Release (November 4, 2009)
5	Statistical Summary of Adult Felony Sentencing Fiscal Year 2010, State of Washington, Sentencing Guidelines Commission (Jan. 2011)
6	Declaration of Beth Colgan
7	Judgment & Sentence of Juan Alberto Velasquez
8	Declaration for determination of probable cause/Information/Warrant of commitment/Judgment & Sentence of Kevin Franklin

APPENDIX 1

**-LEWIS COUNTY CLERK CERTIFICATION OF -
DOCUMENTS AND/OR CLERK'S CERTIFICATE**

CAUSE NO. 07-1-00543-3

STATE OF WASHINGTON, VS. GUADALUPE SOLIS-DIAZ, JR.
PLAINTIFF DEFENDANT

STATE OF WASHINGTON
COUNTY OF LEWIS

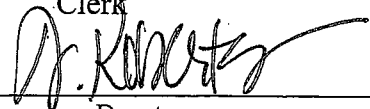
I, KATHY A BRACK, COUNTY CLERK AND CLERK OF THE SUPERIOR COURT OF LEWIS COUNTY, WASHINGTON, DO HEREBY CERTIFY THAT THE ANNEXED IS A TRUE COPY OF THE ORIGINAL ON FILE AND OF RECORD IN THIS OFFICE:

Information
Amended Information
X Judgment and Sentence with Appendix
X Warrant of Commitment
Presentence Investigation Report to DOC
X Other **AFFIDAVIT REGARDING PROB CAUSE**

OR THAT, IN THE MATTER OF A CHANGE OF VENUE IN THE ABOVE-ENTITLED CAUSE, THE FOREGOING IS THE ORIGINAL RECORD ON FILE WITH THE EXCEPTION OF THE ORDER CHANGING VENUE AND THE FOLLOWING;

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED THE SEAL OF THE SAID SUPERIOR COURT AT CHEHALIS, WASHINGTON THIS 17TH OF DECEMBER, 2007

KATHY A BRACK

Clerk
By: 
Deputy

IN THE SUPERIOR COURT OF THE STATE OF
WASHINGTON
IN AND FOR THE COUNTY OF LEWIS

STATE OF WASHINGTON

NO. 07-1-00543-3

VS

WARRANT OF COMMITMENT TO
THE DEPARTMENT OF CORRECTIONS

GUADALUPE SOLIS-DIAZ, JR.,

TO: THE SHERIFF OF LEWIS COUNTY

The DEFENDANT, GUADALUPE SOLIS-DIAZ, JR., has been convicted in the LEWIS COUNTY SUPERIOR COURT of the STATE OF WASHINGTON of the following crime:

COUNT I-VI ASSAULT IN THE FIRST DEGREE
COUNT VII DRIVE BY SHOOTING
COUNT VIII UNLAWFUL POSSESSION OF A FIREARM 2ND DEGREE

AND, the Court has ordered that the DEFENDANT be punished by serving the determined sentence of:

() ___ day(s)	(X) <u>196</u> month(s) on COUNT I
() ___ day(s)	(X) <u>183</u> month(s) on COUNT II-V
() ___ day(s)	(X) <u>27</u> month(s) on COUNT VI
() ___ day(s)	(X) <u>183</u> month(s) on COUNT VII
() ___ day(s)	(X) <u>29</u> month(s) on COUNT VIII

COMMENTS: TOTAL CONFINEMENT ORDERED 1111 MONTHS-FIREARM ENHANCEMENT INCLUDED.

The DEFENDANT shall receive credit for time served prior to this date, as follows: 124 DAYS

YOU, THE SHERIFF, ARE COMMANDED to receive the DEFENDANT for classification, confinement and placement as ORDERED in the Committing Document, and to take and deliver the DEFENDANT to the proper OFFICERS OF THE DEPARTMENT OF CORRECTIONS; and
YOU, THE OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the DEFENDANT for classification, confinement and placement as ORDERED in the Committing Document.

BY DIRECTION OF THE HONORABLE

NELSON E HUNT

JUDGE

KATHY A BRACK

Clerk

Date 12-17-07

BY: 

Received & Filed
LEWIS COUNTY, WASH.
Superior Court

DEC 17 2007

By Kathy A. Brack, Clerk
Deputy

SUPERIOR COURT OF WASHINGTON
COUNTY OF LEWIS

STATE OF WASHINGTON,
Plaintiff,

vs.

GUADALUPE SOLIS-DIAZ, JR.,
Defendant.

SID:
FBI:
DOB: 8/14/90
DOC#:

No. 07-1-543-3

FELONY JUDGMENT AND SENTENCE (FJS)

☒ Prison ☐ RCW 9.94A.712 Prison Confinement
☐ Jail One Year or Less ☐ RCW 9.94A.712 Prison
Confinement
☐ First-Time Offender
☐ Special Sexual Offender Sentencing Alternative
☐ Special Drug Offender Sentencing Alternative
☐ Clerk's Action Required, para 4.5 (SDOSA),
4.15.2, 5.3, 5.6 and 5.8

I. HEARING

1.1 A sentencing hearing was held and the defendant, the defendant's lawyer, Michael J. Underwood, and the senior deputy prosecuting attorney, Christopher Baum, were present.

II. FINDINGS

There being no reason why judgment should not be pronounced, the court FINDS:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 12/7/07
by ☐ plea ☒ jury-verdict ☐ bench trial of:

COUNT	CRIME	RCW	DATE OF CRIME
I	ASSAULT IN THE FIRST DEGREE (SERIOUS VIOLENT FELONY)	9A.36.011(1)(a)	8/11/07
II	ASSAULT IN THE FIRST DEGREE (SERIOUS VIOLENT FELONY)	9A.36.011(1)(a)	8/11/07
III	ASSAULT IN THE FIRST DEGREE (SERIOUS VIOLENT FELONY)	9A.36.011(1)(a)	8/11/07
IV	ASSAULT IN THE FIRST DEGREE (SERIOUS VIOLENT FELONY)	9A.36.011(1)(a)	8/11/07
V	ASSAULT IN THE FIRST DEGREE (SERIOUS VIOLENT FELONY)	9A.36.011(1)(a)	8/11/07
VI	ASSAULT IN THE FIRST DEGREE (SERIOUS VIOLENT FELONY)	9A.36.011(1)(a)	8/11/07
VII	DRIVE BY SHOOTING (FELONY)	9A.36.045(1)	8/11/07
VIII	UNLAWFUL POSSESSION OF FIREARM IN THE SECOND DEGREE (FELONY)	9.41.040(2)(a)(iii)	8/11/07

as charged in the Original Information.

spj: Jail

- ☐ Additional current offenses are attached in Appendix 2.1.
- ☐ The court finds that the defendant is subject to sentencing under **RCW 9.94A.712**.
- ☒ A special verdict/finding for use of **firearm** was returned on Count(s) I, II, III, IV, V, VI. RCW 9.94A.602, 9.94A.533.
- ☐ A special verdict/finding for use of **deadly weapon other than a firearm** was returned on Count(s) _____ RCW 9.94A.602, 9.94A.533.
- ☐ A special verdict/finding of **sexual motivation** was returned on Count(s) _____. RCW 9.94A.835.
- ☐ A special verdict/finding for **Violation of the Uniform Controlled Substances Act** was returned on Count(s) _____, RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- ☐ A special verdict/finding that the defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the premises of manufacture** was returned on Count(s) _____. RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- ☐ The defendant was convicted of **vehicular homicide** which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030.
- ☐ This case involves **kidnapping** in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- ☐ The court finds that the offender has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.
- ☐ The crime charged in Count(s) _____ involve(s) **domestic violence**.
- ☒ Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589): counts one through six and seven
- ☐ Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

2.2 CRIMINAL HISTORY (RCW 9.94A.525):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult, Juv.	TYPE OF CRIME
1 None Known					
2					
3					
4					
5					

- ☐ Additional criminal history is attached in Appendix 2.2.
- ☐ The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.525.
- ☐ The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):

☐ The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520:

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS*	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	2	XII	102-136 MOS	60 MOS	162-196 MOS	LIFE
II	0	XII	93-123 MOS	60 MOS	153-183 MOS	LIFE
III	0	XII	93-123 MOS	60 MOS	153-183 MOS	LIFE
IV	0	XII	93-123 MOS	60 MOS	153-183 MOS	LIFE
V	0	XII	93-123 MOS	60 MOS	153-183 MOS	LIFE
VI	0	XII	93-123 MOS	60 MOS	153-183 MOS	LIFE
VII	1	VII	21-27 MOS		21-27 MOS	10 YRS
VIII	6	III	22-29 MOS		22-29 MOS	5 YRS

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present.

☐ Additional current offense sentencing data is attached in Appendix 2.3.

2.4 ☐ EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence:

☐ within ☐ below the standard range for Count(s) _____.

☐ above the standard range for Count(s) _____.

☐ The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

☐ Aggravating factors were ☐ stipulated by the defendant, ☐ found by the court after the defendant waived jury trial, ☐ found by jury by special interrogatory.

Findings of fact and conclusions of law are attached in Appendix 2.4. ☐ Jury's special interrogatory is attached. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence.

2.5 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS. The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

☐ The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are ☐ attached ☐ as follows: _____

III. JUDGMENT

3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2 ☐ The court DISMISSES Counts

3.3 ☐ The defendant is found NOT GUILTY of Counts

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

JASS CODE

<i>RTN/RJN</i>	\$ 1931.49	Restitution to: Seth Devlin	
	\$ 1053.35	Restitution to: John Regan	
	\$	Restitution to:	
		(Name and Address--address may be withheld and provided confidentially to Clerk of the Court's office.)	
<i>PCV</i>	\$ 500	Victim assessment	RCW 7.68.035
	\$	Domestic Violence assessment	RCW 10.99.080
<i>CRC</i>	\$	Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190	
		Criminal filing fee \$ 200	FRC
		Witness costs \$	WFR
		Sheriff service fees \$ 512	SFR/SFS/SFW/WRF
		Jury demand fee \$	JFR
		Extradition costs \$	EXT
		Other \$	
<i>PUB</i>	\$ TBD	Fees for court appointed attorney	RCW 9.94A.760
<i>WFR</i>	\$ TBD	Court appointed defense expert and other defense costs	RCW 9.94A.760
<i>FCM/MTH</i>	\$	Fine RCW 9A.20.021; <input type="checkbox"/> VUCSA chapter 69.50 RCW, <input type="checkbox"/> VUCSA additional fine deferred due to indigency RCW 69.50.430	
<i>CDF/LDI/FCF</i> <i>NTF/SAD/SDI</i>	\$	Drug enforcement fund of Lewis County	RCW 9.94A.760
<i>CLF</i>	\$	Crime lab fee <input type="checkbox"/> suspended due to indigency	RCW 43.43.690
	\$ 100	Felony DNA collection fee <input type="checkbox"/> not imposed due to hardship	RCW 43.43.7541
<i>RTN/RJN</i>	\$	Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1000 maximum)	RCW 38.52.430
	\$ 1000	Other costs for: Jail Fee	
	\$	TOTAL	RCW 9.94A.760

[] The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

[] shall be set by the prosecutor.

[] is scheduled for _____

[] RESTITUTION. Schedule attached.

[] Restitution ordered above shall be paid jointly and severally with:

NAME of other defendant CAUSE NUMBER (Victim's name) (Amount-\$)

RJN

[] The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

[X] All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ 25 per month commencing 60 DAYS FROM SENTENCE _____. RCW 9.94A.760.

The defendant shall report as directed by the clerk of the court and provide financial information as requested. RCW 9.94A.760(7)(b).

[] In addition to the other costs imposed herein, the court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the rate of \$50.00 per day, unless another rate is specified here: _____. (JLR) RCW 9.94A.760.

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

4.2 DNA TESTING. The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

[] HIV TESTING. The defendant shall submit to HIV testing. RCW 70.24.340.

4.3 The defendant shall not have contact with JESSE DOW (DOB: 1/24/80), SHEENA FISCO (DOB: , CASSANDRA NORSEKOG (11/4/82), SEAN THOMAS, DOUG HOHEISEL, JONATHAN FREEMAN (DOB: 4/19/86) _____ (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for LIFE years (not to exceed the maximum statutory sentence).

[] Domestic Violence No-Contact Order or Antiharassment No-Contact Order is filed with this Judgment and Sentence.

4.4 OTHER: _____

4.5 CONFINEMENT OVER ONE YEAR. The defendant is sentenced as follows:

- (a) CONFINEMENT. RCW 9.94A.589. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

196 months on Count I	183 months on Count IV
183 months on Count II	183 months on Count V
183 months on Count III	27 months on Count VI
183 months on Count VII	29 months on Count VIII

TIME IMPOSED ON COUNTS ONE THROUGH SIX INCLUDES 60 MONTHS FOR FIREARM ENHANCEMENT.

Actual number of months of total confinement ordered is: 1111 months.
(Add mandatory firearm and deadly weapons enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above.)

☐ The confinement time on Count(s) contain(s) a mandatory minimum term of

THE CONFINEMENT IMPOSED ON COUNTS ONE THROUGH SIX SHALL RUN CONSECUTIVELY TO EACH OTHER PURSUANT TO RCW 9.94A.589(1)(b) AND CONCURRENTLY WITH COUNTS SEVEN AND EIGHT

THE FIREARM ENHANCEMENT TIME OF 60 MONTHS PER ASSAULT IMPOSED ON COUNTS ONE THROUGH SIX SHALL RUN CONSECUTIVE TO EACH OTHER AND CONSECUTIVELY TO THE STANDARD RANGE TIME IMPOSED ON COUNTS ONE THROUGH EIGHT PURSUANT TO RCW 9.94A.533.

All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon as set forth above at Section 2.3, and except for the following counts which shall be served consecutively:

The sentence herein shall run consecutively with the sentence in cause number(s)

but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here:

- (b) CONFINEMENT. RCW 9.94A.712 (Sex Offenses only): The defendant is sentenced to the following term of confinement in the custody of the DOC:

Count	minimum term	Maximum term
-------	--------------	--------------

Count _____ minimum term _____ Maximum term _____

- (c) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court: 124 days.

4.6 ☐ **COMMUNITY PLACEMENT** is ordered as follows: Count _____ for _____ months;
Count _____ for _____ months; Count _____ for _____ months.

☐ **COMMUNITY CUSTODY** for count(s) _____, sentenced under RCW 9.94A.712, is ordered for any period of time the defendant is released from total confinement before the expiration of the maximum sentence.

☒ **COMMUNITY CUSTODY** is ordered as follows:

Count I for a range from 24 to 48 months;
Count II for a range from 24 to 48 months;
Count III for a range from 24 to 48 months;
Count IV for a range from 24 to 48 months;
Count V for a range from 24 to 48 months;
Count VI for a range from 24 to 48 months;
Count VII for a range from 18 to 36 months

or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A.700 and .705 for community placement offenses, which include serious violent offenses, second degree assault, any crime against a person with a deadly weapon finding and chapter 69.50 or 69.52 RCW offenses not sentenced under RCW 9.94A.660 committed before July 1, 2000. See RCW 9.94A.715 for community custody range offenses, which include sex offenses not sentenced under RCW 9.94A.712 and violent offenses committed on or after July 1, 2000. Use paragraph 4.7 to impose community custody following work ethic camp.]

On or after July 1, 2003, DOC shall supervise the defendant if DOC classifies the defendant in the A or B risk categories; or, DOC classifies the defendant in the C or D risk categories and at least one of the following apply:

a) the defendant committed a current or prior:		
i) Sex offense	ii) Violent offense	iii) Crime against a person (RCW 9.94A.411)
iv) Domestic violence offense (RCW 10.99.020)		v) Residential burglary offense
vi) Offense for manufacture, delivery or possession with intent to deliver methamphetamine including its salts, isomers, and salts of isomers,		
vii) Offense for delivery of a controlled substance to a minor; or attempt, solicitation or conspiracy (vi, vii)		
b) the conditions of community placement or community custody include chemical dependency treatment.		
c) the defendant is subject to supervision under the interstate compact agreement, RCW 9.94A.745.		

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work a DOC-approved education, employment and/or community restitution (service); (3) not consume controlled substances except pursuant to lawfully issued prescriptions; (4) not unlawfully possess controlled substances while in community custody; (5) pay supervision fees as determined by DOC; and (6) perform affirmative acts necessary to monitor compliance with the orders of the court as required by DOC. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders not sentenced under RCW 9.94A.712 may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

☐ The defendant shall not consume any alcohol.

☐ Defendant shall have no contact with: _____.

☐ Defendant shall remain ☐ within ☐ outside of a specified geographical boundary, to wit: _____

☐ Defendant shall not reside in a community protection zone (within 880 feet of the facilities or grounds of a public or private school). (RCW 9.94A.030(8)).

☐ The defendant shall participate in the following crime-related treatment or counseling services: _____

☐ The defendant shall undergo an evaluation for treatment for ☐ domestic violence ☐ substance abuse
☐ mental health ☐ anger management and fully comply with all recommended treatment.

☐ The defendant shall comply with the following crime-related prohibitions: _____

☐ Other conditions: _____

☐ For sentences imposed under RCW 9.94A.712, other conditions may be imposed during community custody by the Indeterminate Sentence Review Board, or in an emergency by DOC. Emergency conditions imposed by DOC shall not remain in effect longer than seven working days.

4.7 ☐ **WORK ETHIC CAMP.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.6

4.8 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: _____

V. NOTICES AND SIGNATURES

5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.

5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purpose of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.

5.4 **RESTITUTION HEARING.**

☐ Defendant waives any right to be present at any restitution hearing (sign initials): _____

- 5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.634.
- 5.6 **FIREARMS.** You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.
- 5.8 ☐ The court finds that Count _____ is a felony in the commission of which a motor vehicle was used. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke the defendant's driver's license. RCW 46.20.285.
- 5.9 If the defendant is or becomes subject to court-ordered mental health or chemical dependency treatment, the defendant must notify DOC and the defendant's treatment information must be shared with DOC for the duration of the defendant's incarceration and supervision. RCW 9.94A.562.

5.10 **VOTING RIGHTS STATEMENT:** RCW 10.64. _____. I acknowledge that my right to vote has been lost due to felony conviction. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: a) A certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) A court order issued by the sentencing court restoring the right, RCW 9.92.066; c) A final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) A certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 92A.84.660.

Defendant's signature: Guadalupe Diaz . 2005 Wash. Laws 246 § 1.

5.11 OTHER: _____

5.12 All bail posted is hereby exonerated.

DONE in Open Court and in the presence of the defendant this date: DECEMBER 17, 2007

CLAR

Deputy Prosecuting Attorney
WSBA No. 32279
Print name: Christopher Baum

Michael Underwood

Attorney for Defendant
WSBA No.
Print name: Michael Underwood

Nelson E. Hunt
Judge/Print name:

Guadalupe Diaz

Defendant
Print name: Guadalupe Solis-Diaz, Jr.

Nelson E. Hunt

I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the _____ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.
Interpreter signature/Print name: _____

I, _____, Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: _____.

Clerk of the Court of said county and state, by: _____, Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID No. _____ Date of Birth 8/14/90
FBI No. _____ Local ID No. _____
PCN No. _____ Other 5'6", 135 lbs, black hair, brown eyes.
Alias name, DOB, SS#: _____

Race:
☐ Asian/Pacific Islander ☐ Black/African-American ☐ Caucasian ☒ Hispanic ☒ Male
☐ Native American ☐ Other: _____ ☐ Non-Hispanic ☐ Female

FINGERPRINTS: I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto. Clerk of the Court, Deputy Clerk, H. Warden Dated: 12/17/07

DEFENDANTS NAME: Guadalupe Solis-Diaz, Jr.

DEFENDANT'S SIGNATURE: Guadalupe Diaz

Left four fingers taken simultaneously

Left
Thumb

Right
Thumb

Right four fingers taken simultaneously



APPENDIX 2

1
2
3
4 IN THE COURT OF APPEALS OF
5 THE STATE OF WASHINGTON
6 DIVISION II

7 IN RE PERSONAL RESTRAINT
8 OF
9 GUADALUPE SOLIS DIAZ
10

NO. 37120-1-II

DECLARATION OF
GUADALUPE SOLIS DIAZ

11 I, Guadalupe Solis Diaz, declare the following:

- 12 1. I was born in Centralia, Washington on August 14, 1990. I am 20 years old. I have
13 been locked up for this matter since I was 17 years old.
- 14 2. I am half Mexican and half Native American. My mother is a member of the Quinault
15 and Tahoe tribes. I lived with her growing up, and also spent summers with my
16 grandmother on the Quinault Reservation. My father was never in the picture. I have
17 two half sisters, one younger than me and one older than me.
- 18 3. Growing up, I never got in trouble except for two misdemeanor juvenile offenses
19 related to drug paraphernalia and alcohol. I did okay in school and completed the tenth
20 grade.
- 21 4. When I was about 16 years old, I started going through a rough period. I had broken up
22 with my girlfriend and I didn't know how to deal with my mother's drinking problem.
23 I was depressed and felt I had to get away from home. I ended up homeless on the
24 streets for awhile, where I fell into the gang life with some older cousins.
25

- 1 5. I was just 17 when I got arrested for these assault charges. From the time I was
2 arrested to the time I was sentenced, I felt very confused. I didn't have any criminal
3 history and I had never been to trial. At trial, I was confused and scared and I didn't
4 understand what was going on. I didn't testify and just sat there through the trial, as my
5 attorney told me to do.
- 6 6. I remember getting some type of plea deal or offer, but I didn't understand it. I asked
7 my public defender if I could talk to my family about it, but I was told I had one night
8 to make up my mind. I went to trial. I didn't understand what I was facing. I didn't
9 believe that someone could get almost 100 years for an incident where nobody got
10 hurt. I still do not understand very well why I am sentenced to be in prison for the rest
11 of my life for something that happened when I was only 16 years old.
- 12 7. After I was sentenced, I spent some time at Green Hill School where counselors talked
13 to me and helped me learn some things about myself. When I turned 18, I was
14 transferred to Shelton and then to the Washington State Penitentiary where I have been
15 since 2008.
- 16 8. I got my GED in 2009 and I want to continue my education. I recently started a graphic
17 design program and I am excited to be learning new things. I am trying to stay positive
18 and work on myself even though I may never get the chance to get out.
- 19 9. Things have been hard in prison. I am trying to stay out of trouble but it is hard to
20 avoid the prison drama. It is depressing to think that I will spend the rest of my life
21 here. My mother and sisters used to visit me, but after I was moved here to Walla
22 Walla, they stopped coming because it's too far. I haven't had a visitor since 2008.

23
24 I DECLARE under the penalty of perjury of the laws of the State of Washington that the
25 foregoing is true and correct.

1 DATED this ____ day of April, 2011, at Walla Walla, Washington.

2
3 /s/ Guadalupe Solis Diaz* (see Appendix A)
4 Guadalupe Solis Diaz
5 DOC # 313623
6 1313 N 13th Avenue
7 Walla Walla, WA 99362
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APPENDIX A

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IN THE COURT OF APPEALS OF
THE STATE OF WASHINGTON
DIVISION II

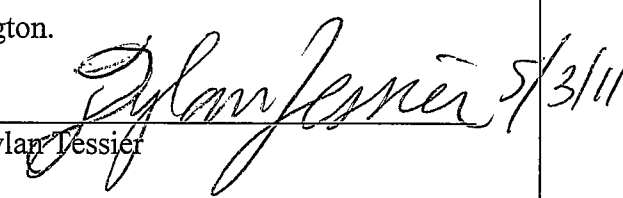
IN RE PERSONAL RESTRAINT OF GUADALUPE SOLIS DIAZ	NO. 37120-1-II DECLARATION OF DYLAN TESSIER REGARDING DECLARATION OF GUADALUPE SOLIS DIAZ
--	---

I, Dylan Tessier, declare the following:

1. I am a law student at the University of Washington, assisting Kim Ambrose in her representation of Guadalupe Solis Diaz.
2. In April 2011, I mailed Mr. Solis Diaz a typed copy of his declaration for him to sign.
3. On April 28, 2011, I talked to Mr. Solis Diaz by phone and he confirmed that he had signed his declaration and mailed it back to me.
4. I have not received the signed documents as of May 3, 2011, but expect to receive it in the next few days and will submit it to the court with the verification form.

I DECLARE under the penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

DATED this 3rd day of May, 2011, at Seattle, Washington.


Dylan Tessier

APPENDIX 3

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December 17, 2007

* * * * *

THE COURT: You may be seated.

MR. BAUM: Good morning, your Honor. This is State of Washington versus Guadalupe Solis-Diaz, Junior, 07-1-543-3, the matter is on for sentencing. He is present in custody with his attorney, Mr. Underwood, Chris Baum for the state.

THE COURT: Mr. Underwood, are you ready?

MR. UNDERWOOD: We're ready, your Honor.

THE COURT: Go ahead, Mr. Baum.

MR. BAUM: Thank you. Friday night I sat down and started doing some calculations on this. As the court's probably aware, Counts I through VI are serious violent offenses, they run consecutively by statute. They're all the same severity level. So under the statute one of them would allow us to count two of the non-serious violent offenses points against it, so the Drive-by and UPF. So for Count I, the range would be 111 to 147. Then for the remaining five counts, the statute requires we run it at zero points 93 to 123.

THE COURT: 111 with a score of 18? Don't the serious violent ones count against each other as well?

MR. BAUM: They don't, I can read the statute 9.94A.589 --

1 THE COURT: I've got it right here, you're
2 right, go ahead.

3 MR. BAUM: I initially thought that it would
4 be nine plus would be the offender score for each of
5 them. It seems the statute is fairly clear on that
6 issue.

7 THE COURT: It is.

8 MR. BAUM: So my recommendation on Count I
9 which I'm going to -- that will be an offender score of
10 two is going to be 147, top of the range. On the
11 remaining five counts of Assault in the First Degree I'm
12 going to recommend 123, which is also the top of the
13 range for each of those five. Now, my calculation for
14 the Drive-by shooting, I've got it at seven points, 67
15 to 89. I'm going to recommend 89, that's going to run
16 concurrent with the time imposed on the Assault I by
17 statute. Then the UPF II, I also have as a seven, that
18 would be 33 to 43, my recommendation is 43 months.

19 Now, as the court is aware, you heard the testimony
20 in this case, and I think it is just by sheer good luck
21 or good grace of God that Mr. Solis-Diaz did not hit
22 anybody and kill them when he sprayed seven rounds down
23 South Tower on that evening. So given the severity of
24 the offense, and the likelihood that somebody could have
25 died or been paralyzed or seriously injured was so great

1 that it warrants an amount of time, top of the range.
2 So it appears to be entirely unprovoked. It was -- I'm
3 not entirely sure a retaliation or gang related motive,
4 but it was entirely uncalled for.

5 As to the rest of the recommendation, 60 months of
6 firearm enhancements would be applied to each Counts I
7 through VI adding to those ranges. Financial, \$500
8 victim, \$200 filing, \$512 service fee, attorney fee,
9 court appointed expert and defense costs, we haven't
10 collected that information yet so we'll reserve that,
11 \$100 DNA, \$1,000 jail fee. No contact with any of the
12 victims for life. He's been in custody since August
13 15th of '07 so he has by my calculation 124 days credit.
14 And he would have community custody on Count I threw VI
15 of 24 to 48 months, and then Count VII, 18 to 36 months.
16 There is no community custody on the UPF. Thank you.

17 And just so the court knows, we did attempt to get
18 ahold of the victims to see if they wanted to come in
19 and make a statement to the court. None of them wanted
20 to for obvious reasons.

21 THE COURT: All right. Mr. Underwood.

22 MR. UNDERWOOD: Thank you, your Honor. I have
23 gone over the new calculations both with Mr. Baum and my
24 client, we're in agreement with them.

25 THE COURT: Let me ask you a question here. I

1 spent some time looking at it, apparently, I didn't read
2 the statute quite correctly, but isn't the Drive-by
3 shooting really encompassed within the same criminal
4 conduct here?

5 MR. BAUM: I'm going to argue against that. I
6 couldn't find a case law on point, but I think the
7 intent was entirely different. I did pull one case that
8 dealt with a robbery and assault where they said didn't
9 the assault further the robbery and it was same course.
10 Court said no, the intent was different. That's what we
11 have here. The Assault I requires an intent to do great
12 bodily harm whereas the Drive-by shooting doesn't. So
13 there is an entirely different intent.

14 THE COURT: Just a moment, though, if the
15 assault here was to cause great apprehension and fear in
16 the mind of the victim, isn't that what Drive-by
17 shooting does?

18 MR. BAUM: That's not the only theory the
19 state argued, fear and apprehension, but also
20 transferred intent, they intended to shoot Mr. Dow and
21 failed to hit him and also that intent transferred.

22 THE COURT: But you transfer the same intent.
23 I don't see it was intent for these but a different
24 intent for the others, right?

25 MR. BAUM: Well, I think there isn't really an

1 intent element with Drive-by shooting, it's recklessly
2 discharged the firearm whereas an Assault I requires an
3 intent to inflict great bodily harm. Those two crimes
4 are completely different.

5 THE COURT: Mr. Underwood.

6 MR. UNDERWOOD: I agree they're different,
7 your Honor, but the crime here for which the assaults
8 were perpetrated by a Drive-by shooting, I think they
9 are encompassed.

10 THE COURT: There is no question but it's the
11 same time and place and the same victim --

12 MR. BAUM: Yes.

13 THE COURT: -- and the difference is the
14 intent. Well, one is reckless, which is the lesser one,
15 so that would be encompassed within a finding of an
16 intentional act and it has to be viewed objectively, not
17 subjectively. I'm going to find -- to start off with
18 I'm going to find they are encompassed and that changes
19 the calculations. I didn't think it would until my
20 misreading of the statute changed.

21 MR. BAUM: It would drop it down one point.

22 THE COURT: So for Count I it's one point.

23 MR. BAUM: 102 to 136.

24 THE COURT: Right. And that's really the only
25 place --

1 MR. BAUM: That's the only issue.

2 THE COURT: Mr. Underwood, go ahead, .

3 MR. UNDERWOOD: Certainly it is a tragic
4 event. You heard all the evidence. My client still
5 maintains his innocence, your Honor, but the jury did
6 find him guilty. We would ask the court, your Honor, to
7 give him the low end of the range. He is 17 years old,
8 declined as a juvenile and tried here. He's still
9 looking at, your Honor, almost a life sentence, quite
10 frankly, unless something happens in the intervening
11 years that he is serving his time. We think the low end
12 of the range would be more appropriate.

13 With regard to the costs, your Honor, they're as
14 set out. I would just ask the court to waive what you
15 can. If he does ever get out, depending on what your
16 sentence is, the cost at 12 percent interest would be
17 overburdening and I would ask the court to take that
18 into consideration. Everything else as far as the no
19 contact, all those issues, we have no disagreement with
20 those.

21 THE COURT: All right. Mr. Solis-Diaz, this
22 is your opportunity to tell me what you think sentencing
23 ought to be. You don't have to if you don't want to,
24 you're free to rely on what Mr. Underwood has said and
25 done on your behalf and I won't hold it against you if

1 you decide to say nothing. On the other hand, if you
2 have something to say, now is the time to say it.

3 MR. UNDERWOOD: He won't say anything, your
4 Honor.

5 THE COURT: Is that right, Mr. Solis-Diaz?

6 THE DEFENDANT: Yes.

7 MR. BAUM: Your Honor --

8 THE COURT: Yes.

9 MR. BAUM: -- I would like to read a passage
10 from this, from the case if I may on the Drive-by
11 shooting being encompassing, may I?

12 THE COURT: Yes.

13 MR. BAUM: The case I have is State v.
14 Freeman, 118 Wn. App. 365, and the court -- like I said,
15 it was Robbery versus Assault I -- and the court said,
16 Viewed objectively, the intent required for Robbery is
17 the intent to deprive the victim of property. Intent to
18 cause injury is not an element of Robbery in the First
19 Degree. Viewed objectively, the intent required for
20 First Degree Assault is the intention to inflict great
21 bodily harm. I think that is what's missing for the
22 Drive-by shooting. He intended, either recklessly or
23 intentionally, shot at them, but that does not encompass
24 the intent to inflict great bodily harm. I think that's
25 the distinction drawing by analogy State v. Freeman.

1 THE COURT: I disagree. I think these are
2 clearly the same criminal, -- encompassed within the same
3 criminal intent.

4 All right, sentence will be 196 months on Count I,
5 that includes the enhancement which I think is to be
6 done by each count, 183 months on Counts II through VI,
7 each to run consecutively, 100 -- let's see here, on the
8 Drive-by shooting, what was the range that you had
9 calculated?

10 MR. BAUM: I calculate seven, 67 to 89, that's
11 going to be thrown off because if it is same criminal
12 conduct, it will be a different range.

13 THE COURT: Right. I think it will be just
14 one.

15 MR. BAUM: I think you're right, no two.

16 THE COURT: No, two, 26 to 34 months, that
17 will be 34 months concurrent with the others. And the
18 Unlawful Possession of a Firearm is 22 to 29 months,
19 that will be 29 months also concurrent with the other
20 counts. If I added correctly, I think that comes out to
21 a total time to be served of 811 months.

22 MR. BAUM: Let me do some quick math here.

23 MR. UNDERWOOD: Did you say 811?

24 THE COURT: No, that's wrong because I didn't
25 include the firearm enhancements, so it's 183 times 5

1 plus 196, whatever that comes out to be. It is a long
2 time that's for sure. 1,111 months?
3 MR. BAUM: 1111?
4 THE COURT: Yes.
5 MR. BAUM: That's what I got.
6 THE COURT: Okay. It is essentially 90 some
7 years.
8 MR. BAUM: 92.5.
9 THE COURT: So actually, all of the discussion
10 about this has no practical impact when you get right
11 down to it.
12 MR. BAUM: It is not a huge difference.
13 THE COURT: Legally, it is correct, though.
14 The fines and costs will be imposed as recommended.
15 MR. BAUM: I'd like to do formal entry later
16 if that's possible, then I can fix the paperwork to
17 reflect the ranges.
18 THE COURT: I think that's probably best with
19 all the changes we made in the ranges.
20 MR. UNDERWOOD: When?
21 MR. BAUM: I can have it done in 15 minutes,
22 but we can put it on for Thursday for formal entry.
23 THE COURT: I'm not doing the docket.
24 MR. BAUM: If you want to take a break, I can
25 run down and do it and come back up.

1 THE COURT: Quarter to 10:00, we will
2 reassemble at 9:45 for formal entry.

3 MR. BAUM: All right.

4 THE COURT: All right we're at recess.

5 (Recess taken)

6 THE COURT: You may be seated.

7 MR. BAUM: State's prepared the paperwork,
8 your Honor. What I forgot to ask for was restitution
9 for Mr. Devlin, the owner of the car, obtained an
10 estimate, he has not repaired his vehicle, that's
11 \$1,931.41 to repair the bullet damage. And Mr. Regan,
12 the owner of the building, \$1,053.35 to repair that.
13 That's what they're asking for in the form of
14 restitution for the antique shop.

15 THE COURT: Mr. Underwood.

16 MR. UNDERWOOD: We object to restitution.
17 Again, the costs are so high already it is kind of
18 piling it on. Those are estimates, so we object to the
19 court ordering any restitution.

20 THE COURT: I'm going to find that this sort
21 of damage clearly could have been anticipated, should
22 have been anticipated by the defendant in the Drive-by
23 shooting and I'll accept the figures and order
24 restitution as requested.

25 MR. BAUM: Then in chambers, Count VII, we

1 brought up the fact offender score probably should have
2 been a one, it's 21 to 27 months, I think we're all in
3 agreement with that.

4 THE COURT: Yes.

5 MR. BAUM: Okay.

6 THE COURT: All right. Mr. Solis-Diaz, have
7 you had an adequate opportunity to review this judgment
8 and sentence with Mr. Underwood?

9 THE DEFENDANT: Yes.

10 THE COURT: Does it say what I said it should
11 say?

12 THE DEFENDANT: Yes.

13 THE COURT: All right, I'm signing it. I've
14 got a number things I need to advise you about. First,
15 is that as a result of this felony conviction your right
16 to own, possess, or have under your control any firearm
17 is revoked. That revocation continues forever unless
18 and until you get a superior court judge in this state
19 to reinstate your right to bear arms. If you own,
20 possess, or have under your control any firearm without
21 such a written reinstatement order, it is a new felony.
22 So don't do it.

23 Also, because this conviction resulted from a jury
24 trial, I have to advise you of your right to appeal.
25 You do have the right to appeal. That appeal right,

1 however, disappears after 30 days from today's date. So
2 you need to file your notice of appeal within 30 days.
3 Mr. Underwood, are you approaching with that document?

4 MR. UNDERWOOD: I am, your Honor. We would
5 like to have the court note we're filing notice of
6 appeal. Also included is a notice and declaration for
7 order of indigency as well as order of indigence. My
8 client did indicate we would ask that court appointed
9 counsel be appointed.

10 THE COURT: All right. That actually takes
11 care of most of what I have to advise you of. I have
12 signed the order of indigency. I need to advise you an
13 attorney will be appointed, but if that should not
14 happen, you do have the right to have the parts of the
15 record necessary for an appeal reproduced at no expense
16 to you. And you also have the ability to challenge the
17 constitutionality of your conviction under RCW 10.73.090
18 and 100. That is a difficult process to explain and to
19 understand and Mr. Underwood will, if you ask him, give
20 you some advice on that. But the main thing to remember
21 -- because the time period there is a year, but there
22 are limits on what you can raise -- the main thing to
23 remember is to file a notice of appeal within 30 days.
24 Do you understand all that?

25 THE DEFENDANT: Yes.

1 THE COURT: All right. We will need your
2 fingerprints and we're at recess.

3 (Conclusion of Sentencing)

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C E R T I F I C A T E

STATE OF WASHINGTON)
) ss
COUNTY OF THURSTON)

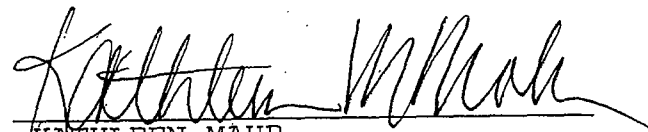
I, Kathleen Mahr, Notary Public, in and for the
State of Washington, residing at Olympia, do hereby
certify:

That the foregoing Verbatim Report of Proceedings
consisting of 13 pages was reported by me and reduced to
typewriting by means of computer-aided transcription;

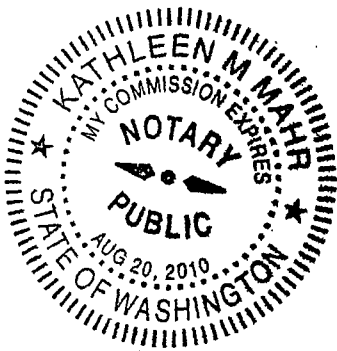
That said transcript is a full, true, and correct
transcript of my shorthand notes of the proceedings
heard before Judge Nelson Hunt on the 17th day of
December 2007, at the Lewis County Superior Court,
Chehalis, Washington;

That I am not a relative or employee of counsel or
to either of the parties herein or otherwise interested
in said proceedings.

WITNESS MY HAND AND OFFICIAL SEAL this 8th day of
April, 2008.


KATHLEEN MAHR

Notary Public in and for the
State of Washington, residing
at Olympia.



APPENDIX 4



FLORIDA PAROLE COMMISSION FLORIDA DEPARTMENT OF CORRECTIONS



Senate Criminal Justice Committee
November 4, 2009

Conditional Medical Release

Conditional Medical Release is a discretionary early release program authorized by s. 947.149, F.S., for inmates with an existing medical or physical condition rendering them permanently incapacitated or terminally ill.

An inmate is eligible for conditional medical release when the inmate, because of an existing medical or physical condition, is determined to be one of the following:

- **Permanently Incapacitated**
 - An inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that the inmate does not constitute a danger to themselves or others.
- **Terminally Ill**
 - An inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate terminally ill to the extent that there can be no recovery and death is imminent, so that the inmate does not constitute a danger to themselves or others.

Department of Corrections

- The Department of Corrections is responsible in identifying and referring inmates who are eligible for conditional medical release to the Florida Parole Commission.
- The Department supervises inmates who are granted conditional medical release. The supervision term of an inmate released on conditional medical release is for the remainder of the inmate's sentence.

Florida Parole Commission

- The Commission has the sole authority to approve or disapprove conditional medical release.
- The Commission establishes the terms and conditions of conditional medical release supervision.
- The Commission may revoke an inmate's conditional medical release if the inmate violates the terms and conditions of supervision.
- If the inmate's medical or physical condition improves to the extent that the inmate no longer meets the eligibility criteria for the conditional medical release program, the Commission may order that the inmate be returned to the custody of the Department of Corrections to serve the balance of the sentence.

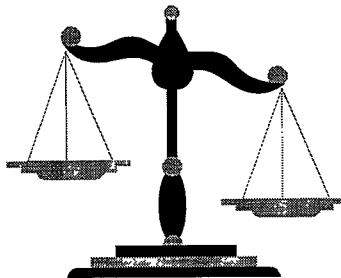
Conditional Medical Release Trends for the Past 5 Years

Fiscal Year	Recommendations by the DOC	Approved by the FPC	Died While on Supervision	Currently on Supervision	Terminated Sentence	Revoked, in Prison
08-09	36	20	12	5	0	3
07-08	25	13	7	2	4	0
06-07	15	9	6	0	3	0
05-06	27	15	12	0	2	1
04-05	25	10	8	0	2	0

APPENDIX 5

**STATISTICAL SUMMARY OF
ADULT FELONY SENTENCING
FISCAL YEAR 2010**

January 2011



**State of Washington
Sentencing Guidelines Commission
P.O. Box 40927
Olympia, WA 98504-0927
(360) 407-1050
Fax: (360) 407-1043
www.sgc.wa.gov**

State of Washington
Governor Christine Gregoire
Sentencing Guidelines Commission

David Boerner, Chair
Professor, Seattle University School of Law

Hon. Ellen J. Fair, Vice Chair
Snohomish County Superior Court

Ida Ballasiotes
Citizen Member

John Clayton
Assistant Secretary, Juvenile Rehab. Admin.

Lynne DeLano
Chair, Indeterminate Sentencing Review Board

Edward "Ned" Delmore
Director of Services
Kitsap County Juvenile Department

Dr. Lynda Ring-Erickson
Mason County Commissioner

Russ Hauge
Prosecuting Attorney, Kitsap County

(to be filled)
Cities Representative

Lucy Isaki
Sr. Assistant Director & Legal Counsel
Office of Financial Management

Michael Kawamura
Director, Pierce County Assigned Counsel

Timothy Killian
Citizen Member

Hon. John Meyer
Skagit County Superior Court

Hon. Dean Lum
King County Superior Court

Lenell Nussbaum
Defense Attorney, King County

Paul Pastor
Sheriff, Pierce County

Dan Satterberg
King County Prosecuting Attorney

Mary Ellen Stone
Executive Director,
King County Sexual Assault Resource Center
Citizen Member

Hon. Stephen Warning
Cowlitz County Superior Court

Eldon Vail
Secretary, Department of Corrections

Rep. Sherry Appleton
Washington State Representative

Sen. Adam Kline
Washington State Senator

Rep. Kirk Pearson
Washington State Representative

Sen. Pam Roach
Washington State Senator

Commission Staff

Sandy F. Mullins
Executive Director

Andi May
Administrative Assistant

Duc Luu
Deputy Director

Keri-Anne Jetzer
Research Investigator

Thuy Le
Research Analyst

Lindsey May
Data Compiler

Jennifer Jones
Data Compiler

Shoshana Kehoe-Ehlers
Sex Offender Policy Board Program Director

TABLE OF CONTENTS

PREFACE	iv
EXECUTIVE SUMMARY	vi

AVERAGE SENTENCE LENGTHS

Table 1. Average Sentence Length by Forecasting Crime Type.....	1
Table 2. Average Sentence Length Imposed by Offense	2

NUMBER OF SENTENCES

Table 3A. Sentencing Grid Frequencies	14
Table 3B. Drug Sentencing Grid Frequencies	15
Table 4. Number of Sentences for Violent and Nonviolent Offenses by Facility Type and County	16
Table 5. Percentage of Sentences for Violent and Nonviolent Offenses by Facility Type and County	17
Table 6. VUCSA Dealing and Non-dealing Sentences by County	18
Table 7. Sentences with A Deadly Weapon Finding.....	19
Table 8. Sentences with A Sexual Motivation Finding.....	20
Table 9. Type of Verdict Imposed by Crime Type	21

SENTENCE DEPARTURES

Table 10. Sentence Departures by Type and Direction.....	22
Table 11. Sentence Departures by Type and Offense	23
Table 12. Length of Sentence Relative to Standard Range	32

PERSISTENT OFFENDERS

Table 13. Average Sentence of "Most Serious Offenders" by County	39
Table 14. "Persistent Offender" Sentences by County	40

EXCEPTIONAL SENTENCES

Table 15. Aggravated Exceptional Sentence Reasons	42
Table 16. Mitigated Exceptional Sentence Reasons.....	44
Table 17. Within Standard Range Exceptional Sentence Reasons.....	46

SEX OFFENDER SENTENCING UNDER RCW 9.94A.507

Table 18. "Determinate Plus" Sex Offense Sentences by County	48
Table 19. Sentences with Domestic Violence by County	49

APPENDICES

Appendix A. Adult Felony Sentencing Grid.....	51
Appendix B. Offenses Included Within Each Seriousness Level.....	52
Appendix C. Drug Offense Sentencing Grid	60
Appendix D. Drug Offenses Included Within Each Seriousness Level	60

PREFACE

This report summarizes data on adult felony sentences in the state of Washington for the period July 1, 2009 through June 30, 2010 (Fiscal Year 2010). There were 22,662 felony sentences imposed during this period, which is a 12.1 percent decrease from the number of sentences imposed in Fiscal Year 2009.

Under the Sentencing Reform Act (SRA) of 1981, as amended, RCW 9.94A *et seq.*, felony offenses are ordered within standard (presumptive) sentence ranges unless an exceptional sentence is imposed. The appropriate presumptive range is determined by reference to the seriousness of the current offense, the number and type of the offender's prior offenses and other current offenses. In most cases, an offender will receive a sentence within the standard range for that offense. In Fiscal Year 2010, 4.47 percent of felony sentences are reported as "exceptional" sentences; sentences that fell outside the standard sentence range.

A sentencing judge may order exceptional sentences outside the standard range when substantial and compelling reasons, either aggravating or mitigating factors, exist. Exceptional sentences may be appealed by the defense or by the prosecution and defendants have a right to a jury trial on aggravating factors. Standard range sentences are not appealable. Occasionally, exceptional sentences do not result in confinement for periods outside the standard range. Such sentences may be used to require community supervision beyond the standard range or to require treatment in situations where such treatment is not required in a standard sentence.

For some low risk offenses, the period of total confinement imposed as part of a standard range sentence may be reduced for good behavior, but may not be extended. There are limits on earned release time for serious violent and Class A sex crimes, crimes against persons, specified drug crimes, residential burglary, domestic violence, and other specified offenses. This prohibition extends to persons with prior convictions as well.

The legislature has created sentence enhancements for situations such as felony traffic crimes involving intoxication, crimes involving a deadly weapon, and certain drug-related crimes.

Alternatives to standard range sentences are available for some offenders. One example is a sentence under the First-time Offender Waiver (FTOW). Non-violent first time felony offenders, who have not committed sex and drug offenses, may have the standard sentence waived. Using this alternative, the sentencing judge imposes up to 90 days in jail, up to two years of community supervision and several other non-offense related conditions, such as community based treatment.

Sex offenders with no prior felony sex convictions may receive another type of alternative sentence under the Special Sex Offender Sentencing Alternative (SSOSA). The alternative applies to sex offenders who have not been convicted of a serious violent offense with a sexual motivation finding or of Rape 1, Attempted Rape 1 or Rape 2 and who have a current offense and criminal history that permits the court to impose a sentence within the standard range of less than eleven years confinement. A person sentenced under SSOSA receives a suspended sentence

within the standard range, a jail term of up to twelve months, and several conditions of sentence that may include inpatient and/or outpatient treatment.

The Drug Offender Sentencing Alternative (DOSA) also permits departure from standard range sentencing and results in a reduction of confinement time for eligible offenders combined with intensive treatment in confinement and community based supervision. A DOSA sentence may be imposed for offenders convicted of a non-violent, non-sex offense. Such offenders may not have other current or prior convictions involving sex offense at any time or violent offenses within ten years before conviction of the current offense, and must not have committed an offense involving a weapon enhancement. Additionally, where the current offense constitutes a violation under the Uniform Controlled Substance Act, the court must determine that the offense involved a small quantity of the controlled substance. (*See* RCW 9.94A.660) A court opting for the DOSA option imposes a sentence of one-half of the midpoint of the presumptive standard range for the offense, to be served in a prison facility. The remainder of the midpoint of the standard range is served as a term of community custody, which must include substance abuse treatment, crime-related prohibitions and testing and monitoring for drug use.

The tables in this report were generated from the Commission's database, which includes data on SRA offenders sentenced during Fiscal Year 2010. Comments or questions may be directed to the Commission at:

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EXECUTIVE SUMMARY¹

- In FY10, the total number of felony sentences imposed in Washington decreased 12.01%, from 25,756 sentences in FY09 to 22,662 sentences in FY10.
- Changes in the rate and number of sentences imposed between FY09 and FY10 are summarized as follows:

+19.2 % Robbery (from 641 to 764)	-19.8 % Drugs (from 7,464 to 5,986)
-22.2 % Property (from 9,346 to 7,269)	-23.4 % Manslaughter (from 107 to 82)
+12.5 % Assaults (from 4,711 to 5,302)	+1.8 % Murder (from 113 to 115)
+2.9 % Sex (from 918 to 945)	
- In FY10, 18 offenders were sentenced to life in prison as persistent offenders under the “three strikes” provision of RCW 9.94A.030(37)(a). The 18 new persistent offender sentences imposed in FY10 resulted in a decrease of 28 % from the 25 sentences in FY09.
- The percentage of felony sentences that resulted in a prison sentence increased slightly from 35.8% in FY09 to 37.5% in FY10.
- The average prison sentence in FY10 was 41.8 months, up from 39.4 months in FY09. The average jail sentence length in FY10 was 3.2 months, slightly up from 3.1 months in FY09. Overall, the average sentence length of all felony sentences increased from 16 months in FY09 to 17.5 months in FY10.
- In FY10, the number of sentences imposed for Violations of the Uniform Controlled Substances Act (VUCSA) decreased by 20.2% from the previous year. The number of sentences for “dealing” offenses decreased by 14.1% and the number of sentences for “non-dealing” offenses decreased by 22%.
- The number of First-time Offender Waivers (FTOW) granted increased from 1,410 in FY09 to 1,469 in FY10, a 4.2% increase. Approximately 58% of the First Time Offender Waivers were below the standard range minimum, and 41.3% were within the standard range.
- The number of Special Sex Offender Sentencing Alternative (SSOSA) sentences imposed by the court increased from 118 in FY09 to 131 in FY10, a 11% increase.
- The number of Drug Offender Sentencing Alternative (DOSA) sentences imposed by the court increased from 1,424 sentences in FY09 to 1,488 in FY10, an increase of 4.5%. Among 1,488 DOSA sentences, there were 907 Prison-based DOSA and 581 Residential DOSA. These are all non-exceptional sentences.

¹ The numbers of sentences referenced in this report are as of December 29, 2010. These are subject to change as missing sentencing data becomes available.

**Table 1. Average Sentence Length by Forecasting Crime Type
Fiscal Year 2010**

CATEGORY	PRISON SENTENCE		JAIL SENTENCE		OTHER SENTENCE	TOTAL
	Number	Months	Number	Months	Number	Number
Murder 1	48	453.4	0	n.a.	0	48
Murder 1*	1	Death	0	n.a.	0	1
Murder 1**	9	Life	0	n.a.	0	9
Murder 2	57	199.5	0	n.a.	0	57
Manslaughter	80	74.1	2	7.5	0	82
Sex	641	80.0	295	7.2	4	940
Sex**	5	Life	0	n.a.	0	5
Robbery	572	62.1	187	6.5	0	759
Robbery**	5	Life	0	n.a.	0	5
Assault	2,172	41.5	2,997	4.0	126	5,295
Assault**	7	Life	0	n.a.	0	7
Property	2,407	30.6	4,567	2.8	295	7,269
Drug	1,804	25.4	3,830	2.8	352	5,986
Other	484	27.6	1,171	3.2	48	1,703
Failure to Register as Sex Offender	198	26.7	283	2.0	15	496
TOTAL	8,490	41.8	13,332	3.2	840	22,662

* Death sentence.

** Life sentence.

n.a. = not applicable

NOTE 1: Calculations of average sentence length exclude life/death sentences.

NOTE 2: The above categories are those used by the Department of Corrections and the Caseload Forecast Council for forecasting purposes and are not identical to classifications under the Sentencing Reform Act. For example, the sex categories include pornography and prostitution offenses, which are not classified as sex offenses per se under the Sentencing Reform Act.

NOTE 3: The data reported above for the categories of "assault" and "other" are not comparable to reports prior to FY02. In FY02 the crime categories were revised to more closely match those used by the Department of Corrections and the Caseload Forecast Council. A number of crimes previously reported in the category "other" were re-categorized under "assault".

NOTE 4: The category "Sex" is not comparable to reports prior to FY08 because that category now includes offenses in any forecasting category that were committed with sexual motivation, and excludes the offenses of Failure to Register as Sex Offenders.

NOTE 5: Other sentence includes non-confinement sentences such as residential drug offender sentencing alternative.

**Table 2. Average Sentence Length* Imposed by Offense
Fiscal Year 2010**

OFFENSE	PRISON			NON-PRISON **			TOTAL	
	(N)	%	Months	(N)	%	Months	(N)	Months
AGGRAVATED MURDER 1 (7/1/90-7/24/99)	1	100.0%	Life	0	0.0%	0.0	1	Life
AGGRAVATED MURDER 1 (POST 7/24/99)	7	100.0%	Life	0	0.0%	0.0	7	Life
AGGRAVATED MURDER 1 (POST 7/24/99)	1	100.0%	Death	0	0.0%	0.0	1	Death
ALIEN IN POSSESSION OF A FIREARM	2	5.3%	18.0	36	94.7%	2.8	38	3.6
ALTER OR FORG VEHICLE TITLE	0	0.0%	0.0	1	100.0%	10.0	1	10.0
ANIMAL CRUELTY 1	0	0.0%	0.0	17	100.0%	5.0	17	5.0
ANIMAL FIGHTING	0	0.0%	0.0	6	100.0%	0.9	6	0.9
ARSON 1	18	100.0%	71.9	0	0.0%	0.0	18	71.9
ARSON 1 <attempt>	4	100.0%	18.0	0	0.0%	0.0	4	18.0
ARSON 1 <solic.>	1	100.0%	20.3	0	0.0%	0.0	1	20.3
ARSON 2	10	32.3%	42.8	21	67.7%	5.1	31	17.3
ARSON 2 <attempt>	0	0.0%	0.0	5	100.0%	6.8	5	6.8
ARSON 2 <solic.>	0	0.0%	0.0	1	100.0%	9.0	1	9.0
ASSAULT 1-POST 7/1/90(NEW L12)	78	100.0%	192.7	0	0.0%	0.0	78	192.7
ASSAULT 1-POST 7/1/90(NEW L12) <attempt>	6	100.0%	106.6	0	0.0%	0.0	6	106.6
ASSAULT 1-POST 7/1/90(NEW L12)	3	100.0%	Life	0	0.0%	0.0	3	Life
ASSAULT 2 - POST 7/1/88	387	52.5%	34.0	350	47.5%	6.3	737	20.8
ASSAULT 2 - POST 7/1/88 <attempt>	28	33.7%	32.9	55	66.3%	5.2	83	14.5
ASSAULT 2 - POST 7/1/88 <consp.>	0	0.0%	0.0	1	100.0%	9.0	1	9.0
ASSAULT 2 - POST 7/1/88	1	100.0%	Life	0	0.0%	0.0	1	Life
ASSAULT 3 - POST 7/1/88	288	21.0%	34.3	1082	79.0%	3.2	1370	9.8
ASSAULT 3 - POST 7/1/88	1	100.0%	Life	0	0.0%	0.0	1	Life
ASSAULT BY WATERCRAFT	0	0.0%	0.0	1	100.0%	6.0	1	6.0
ASSAULT OF A CHILD 1	10	100.0%	159.3	0	0.0%	0.0	10	159.3
ASSAULT OF A CHILD 1 <attempt>	1	100.0%	240.0	0	0.0%	0.0	1	240.0
ASSAULT OF A CHILD 2	15	100.0%	61.5	0	0.0%	0.0	15	61.5
ASSAULT OF A CHILD 2 <attempt>	1	100.0%	41.0	0	0.0%	0.0	1	41.0
ASSAULT OF A CHILD 3	6	12.5%	73.7	42	87.5%	3.5	48	12.2
ATTEMPT ELUDE POLICE VEHICLE	182	33.4%	20.2	363	66.6%	2.6	545	8.5
BAIL JUMP W/ CLASS A (POST 7/89)	5	100.0%	20.2	0	0.0%	0.0	5	20.2
BAIL JUMP W/ CLASS B or C (POST 7/89)	102	36.8%	29.4	175	63.2%	3.4	277	13.0
BIGAMY	0	0.0%	0.0	1	100.0%	0.0	1	0.0
BIGAMY <attempt>	0	0.0%	0.0	1	100.0%	0.0	1	0.0
BRIBE RCV'D BY WITNESS	1	100.0%	33.0	0	0.0%	0.0	1	33.0

NOTE:

* Calculations of average sentence length exclude life/death sentences.

** Non-prison includes non-confinement sentences as well as jail sentences

OFFENSE	PRISON			NON-PRISON **			TOTAL	
	(N)	%	Months	(N)	%	Months	(N)	Months
BRIBING A WITNESS	1	100.0%	17.0	0	0.0%	0.0	1	17.0
BURGLARY 1	124	97.6%	60.1	3	2.4%	12.0	127	58.9
BURGLARY 1 <attempt>	5	71.4%	22.8	2	28.6%	11.3	7	19.5
BURGLARY 1 <consp.>	0	0.0%	0.0	1	100.0%	11.3	1	11.3
BURGLARY 2 - PRE 7/90	0	0.0%	0.0	1	100.0%	0.0	1	0.0
BURGLARY 2 (NONDWELLING)-POST 7/90	310	36.0%	32.6	550	64.0%	3.5	860	14.0
BURGLARY 2 (NONDWELLING)-POST 7/90 <attempt>	26	28.3%	32.4	66	71.7%	3.4	92	11.6
BURGLARY 2 (NONDWELLING)-POST 7/90 <consp.>	3	42.9%	33.8	4	57.1%	2.9	7	16.2
CHEATING 1	0	0.0%	0.0	1	100.0%	9.0	1	9.0
CHILD MOLEST 1 (7/90 - 8/31/01)	9	60.0%	95.7	6	40.0%	8.0	15	60.6
CHILD MOLEST 1 (7/90 - 8/31/01) <attempt>	0	0.0%	0.0	1	100.0%	6.0	1	6.0
CHILD MOLEST 1 >17 (POST 8/31/01) (.712)	59	62.1%	92.5	36	37.9%	9.0	95	60.8
CHILD MOLEST 1 >17 (POST 8/31/01) (.712) <attempt>	8	88.9%	45.2	1	11.1%	11.3	9	41.4
CHILD MOLEST 1 >17 (POST 8/31/01) (.712) <consp.>	1	100.0%	51.0	0	0.0%	0.0	1	51.0
CHILD MOLEST 1 >17 (POST 8/31/01) (.712) <solic.>	1	100.0%	38.3	0	0.0%	0.0	1	38.3
CHILD MOLEST 2 (POST 7/90)	75	86.2%	41.9	12	13.8%	6.0	87	36.9
CHILD MOLEST 2 (POST 7/90) <attempt>	1	20.0%	20.3	4	80.0%	11.3	5	13.1
CHILD MOLEST 3 (POST 7/90)	19	31.7%	55.4	41	68.3%	8.3	60	23.2
COMMERCIAL FISHING W/O A LICENSE - 1ST	0	0.0%	0.0	1	100.0%	1.0	1	1.0
COMMERCIAL SEX ABUSE/MINOR - PROMOTE	4	100.0%	103.5	0	0.0%	0.0	4	103.5
COMMERCIAL SEX ABUSE/MINOR - PROMOTE <attempt>	2	100.0%	52.9	0	0.0%	0.0	2	52.9
COMMUNICATION WITH A MINOR new	16	48.5%	41.1	17	51.5%	3.0	33	21.5
COMPUTER TRESPASS 1	2	66.7%	57.0	1	33.3%	0.0	3	38.0
CRE DEL POS COUNTERFEIT CTRL SUBS NARC 1ST OFF	2	100.0%	45.5	0	0.0%	0.0	2	45.5
CRE DEL POS COUNTERFEIT CTRL SUBS NON-NARC 1ST	1	100.0%	12.0	0	0.0%	0.0	1	12.0
CRIMINAL IMPERSONATION 1	4	4.3%	12.5	88	95.7%	2.3	92	2.8
CRIMINAL MISTREATMENT 1 (POST 06/07/06)	3	100.0%	107.3	0	0.0%	0.0	3	107.3
CRIMINAL MISTREATMENT 2	0	0.0%	0.0	1	100.0%	1.2	1	1.2
CRIMINAL MISTREATMENT 2 (POST 06/07/06)	2	33.3%	36.0	4	66.7%	8.3	6	17.5
CTRL SUBS HOMICIDE-POST 7/89 -1ST	2	100.0%	58.0	0	0.0%	0.0	2	58.0

NOTE:

* Calculations of average sentence length exclude life/death sentences.

** Non-prison includes non-confinement sentences as well as jail sentences

OFFENSE	PRISON			NON-PRISON **			TOTAL	
	(N)	%	Months	(N)	%	Months	(N)	Months
CUSTODIAL ASSAULT - POST 7/89	17	37.8%	28.5	28	62.2%	4.8	45	13.8
CUSTODIAL INTERFERENCE 1	0	0.0%	0.0	7	100.0%	4.3	7	4.3
CYBERSTALKING	1	33.3%	19.0	2	66.7%	3.5	3	8.7
DEALING IN DEPIC. OF MINOR (POST 6/30/01)	2	66.7%	37.5	1	33.3%	2.0	3	25.7
DEFRAUDING INNKEEPER > \$75	0	0.0%	0.0	2	100.0%	6.8	2	6.8
DEFRAUDING PUBLIC UTILITY 1	0	0.0%	0.0	3	100.0%	3.0	3	3.0
DEL MAT IN LIEU OF CS-POST7/89 2+	2	66.7%	52.5	1	33.3%	11.0	3	38.7
DEL MAT IN LIEU OF CS-POST7/89 2+ <consp.>	0	0.0%	0.0	1	100.0%	3.5	1	3.5
DEL MAT IN LIEU OF CS-POST7/89 -1ST	4	80.0%	30.5	1	20.0%	1.0	5	24.6
DEL MAT IN LIEU OF CS-POST7/89 -1ST <attempt>	0	0.0%	0.0	1	100.0%	6.0	1	6.0
DEL MAT IN LIEU OF CS-POST7/89 -1ST <consp.>	1	14.3%	24.0	6	85.7%	4.4	7	7.2
DEL POS W/I METH - 1ST OFF (POST 6/30/98)	310	92.5%	32.6	25	7.5%	0.0	335	30.2
DEL POS W/I METH - 1ST OFF (POST 6/30/98) <attempt>	3	17.6%	33.8	14	82.4%	6.4	17	11.2
DEL POS W/I METH - 1ST OFF (POST 6/30/98) <consp.>	8	9.2%	12.0	79	90.8%	4.1	87	4.8
DEL POS W/I METH - 1ST OFF (POST 6/30/98) <solic.>	2	50.0%	30.0	2	50.0%	9.5	4	19.8
DEL POS W/I METH - 2ND OFF (POST 6/30/98)	6	85.7%	58.5	1	14.3%	6.0	7	51.0
DEL POS W/I METH - SCH ZONE OFF (POST 6/30/98)	24	96.0%	64.7	1	4.0%	0.0	25	62.1
DELIVERY FIREARM TO INELIG PERSON	0	0.0%	0.0	3	100.0%	4.7	3	4.7
DESECRATION OF A GRAVE SITE	0	0.0%	0.0	1	100.0%	0.4	1	0.4
DIGITAL SIGNATURE FRAUD	0	0.0%	0.0	1	100.0%	1.2	1	1.2
DISARM A LAW ENFORCEMENT OR CORR OFFICER	0	0.0%	0.0	2	100.0%	1.4	2	1.4
DISTRIB / RETAIL TOBACCO PRODT LIC VIO (POST 07/24)	0	0.0%	0.0	1	100.0%	0.0	1	0.0
DOMESTIC VIOLENCE CT ORDER VIOL (POST 6/30/00)	429	60.3%	24.9	283	39.7%	3.9	712	16.6
DRIVE- BY SHOOTING (POST 6/30/97)	43	97.7%	40.9	1	2.3%	6.5	44	40.1
DRIVE- BY SHOOTING (POST 6/30/97) <attempt>	1	100.0%	21.0	0	0.0%	0.0	1	21.0
DRIVE- BY SHOOTING (POST 6/30/97) <consp.>	1	100.0%	12.0	0	0.0%	0.0	1	12.0
DRIVING UNDER INFLUENCE (FELONY) (POST 07/01/07)	95	95.0%	36.4	5	5.0%	9.6	100	35.1
ELECTIONS VIOLATION	0	0.0%	0.0	1	100.0%	0.2	1	0.2

NOTE:

* Calculations of average sentence length exclude life/death sentences.

** Non-prison includes non-confinement sentences as well as jail sentences

OFFENSE	PRISON			NON-PRISON **			TOTAL	
	(N)	%	Months	(N)	%	Months	(N)	Months
ENDANGERMENT WITH A CONTROLLED SUBSTANCE	1	25.0%	24.0	3	75.0%	7.0	4	11.3
ESCAPE 1	30	90.9%	35.9	3	9.1%	2.1	33	32.8
ESCAPE 1 <attempt>	2	100.0%	22.8	0	0.0%	0.0	2	22.8
ESCAPE 2	32	51.6%	27.6	30	48.4%	5.4	62	16.9
ESCAPE FROM COMMUNITY CUSTODY- POST 6/92	1	1.3%	17.0	76	98.7%	2.0	77	2.2
EXPLOSIVE DEVICES PROHIBITED	1	100.0%	41.0	0	0.0%	0.0	1	41.0
EXPLOSIVE LICENSING VIOLATION	0	0.0%	0.0	7	100.0%	3.1	7	3.1
EXTORTION 1	2	50.0%	17.0	2	50.0%	10.5	4	13.8
EXTORTION 1 <attempt>	0	0.0%	0.0	1	100.0%	9.8	1	9.8
EXTORTION 2	2	33.3%	38.0	4	66.7%	4.3	6	15.5
FAIL TO REGISTER KIDNAPPER - POST 7/24/99	0	0.0%	0.0	14	100.0%	1.9	14	1.9
FAIL TO REGISTER SEX OFF (POST 7/24/99)	3	1.1%	13.7	265	98.9%	1.4	268	1.6
FAIL TO REGISTER SEX OFF 2+ (POST 06/07/06)	195	85.9%	26.9	32	14.1%	5.6	227	23.9
FAIL TO REGISTER SEX OFF -CL A (PRE 7/27/97)	0	0.0%	0.0	1	100.0%	0.0	1	0.0
FALSE VERIFICATION FOR WELFARE	0	0.0%	0.0	5	100.0%	1.6	5	1.6
FALSE VERIFICATION FOR WELFARE <attempt>	0	0.0%	0.0	1	100.0%	12.0	1	12.0
FORGED PRESCRIPTION VUCSA - 1ST	16	11.2%	14.8	127	88.8%	1.8	143	3.2
FORGED PRESCRIPTION VUCSA - 1ST <attempt>	0	0.0%	0.0	6	100.0%	1.0	6	1.0
FORGED PRESCRIPTION VUCSA - 1ST <consp.>	0	0.0%	0.0	3	100.0%	1.8	3	1.8
FORGED PRESCRIPTION VUCSA 2+	0	0.0%	0.0	2	100.0%	0.7	2	0.7
FORGED PRESCRIPTION VULDA	0	0.0%	0.0	7	100.0%	2.8	7	2.8
FORGERY	162	25.8%	19.8	467	74.2%	2.2	629	6.7
HARASSMENT	59	15.6%	29.3	320	84.4%	3.4	379	7.4
HARMING A POLICE DOG	0	0.0%	0.0	1	100.0%	3.0	1	3.0
HIT AND RUN - DEATH (POST 7/21/01)	12	100.0%	65.4	0	0.0%	0.0	12	65.4
HIT AND RUN - INJURY (POST 6/7/00)	36	40.9%	27.7	52	59.1%	4.1	88	13.7
IDENTITY THEFT (PRE 7/22/01)	0	0.0%	0.0	1	100.0%	0.2	1	0.2
IDENTITY THEFT 1 (POST 7/21/01)	65	63.1%	43.4	38	36.9%	2.5	103	28.3
IDENTITY THEFT 1 (POST 7/21/01) <attempt>	3	100.0%	41.9	0	0.0%	0.0	3	41.9
IDENTITY THEFT 2 (POST 7/21/01)	245	41.5%	28.6	346	58.5%	2.8	591	13.5
ILLEGAL TRANSFER OF MOTOR VEHICLE CERTIFICATE	0	0.0%	0.0	8	100.0%	5.5	8	5.5
INCENDIARY DEVICES (POST 7/24/99)	1	25.0%	215.0	3	75.0%	1.7	4	55.0

NOTE:

* Calculations of average sentence length exclude life/death sentences.

** Non-prison includes non-confinement sentences as well as jail sentences

OFFENSE	PRISON			NON-PRISON **			TOTAL	
	(N)	%	Months	(N)	%	Months	(N)	Months
INCEST 1	18	85.7%	36.7	3	14.3%	7.3	21	32.5
INCEST 2	3	30.0%	36.7	7	70.0%	10.3	10	18.2
INCITING CRIMINAL PROFITEERING	2	100.0%	60.0	0	0.0%	0.0	2	60.0
INDECENT EXPOSURE (POST 7/24/99)	8	29.6%	35.5	19	70.4%	5.5	27	14.4
INDECENT EXPOSURE (PRE 7/25/99)	0	0.0%	0.0	2	100.0%	6.4	2	6.4
INDECENT LIB /FORCE VICT w/DIMI CAP(POST 03/20/06)	1	100.0%	68.0	0	0.0%	0.0	1	68.0
INDECENT LIB -DD VICTM (POST 7/90)	33	78.6%	46.3	9	21.4%	7.9	42	38.0
INDECENT LIB -DD VICTM (POST 7/90) <attempt>	4	80.0%	31.4	1	20.0%	11.3	5	27.4
INDECENT LIB W/FORCE (POST 8/31/01) (.712)	9	90.0%	105.8	1	10.0%	6.0	10	95.8
INDECENT LIB W/FORCE (POST 8/31/01) (.712) <attempt>	3	100.0%	78.8	0	0.0%	0.0	3	78.8
INDECENT LIBERTIES BY HEALTHCARE PROVIDER	0	0.0%	0.0	1	100.0%	3.0	1	3.0
INJURY-PUBLIC RECORD	0	0.0%	0.0	1	100.0%	0.1	1	0.1
INSURANCE FRAUD	1	33.3%	12.0	2	66.7%	0.7	3	4.5
INSURANCE FRAUD-FALSE CLAIMS	0	0.0%	0.0	11	100.0%	1.5	11	1.5
INTERFERENCE WITH OFFICER'S DUTES/HOLDING HOSTAGE	1	50.0%	24.0	1	50.0%	12.0	2	18.0
INTIMIDATING A JUDGE	3	75.0%	68.7	1	25.0%	0.7	4	51.7
INTIMIDATING A PUBLIC SERVANT	4	19.0%	17.5	17	81.0%	3.2	21	5.9
INTIMIDATING A PUBLIC SERVANT <attempt>	1	100.0%	38.3	0	0.0%	0.0	1	38.3
INTIMIDATING A WITNESS	18	100.0%	66.1	0	0.0%	0.0	18	66.1
INTIMIDATING A WITNESS <attempt>	1	100.0%	14.0	0	0.0%	0.0	1	14.0
INTIMIDATION WITH AN EXPLOSIVE	0	0.0%	0.0	1	100.0%	3.8	1	3.8
INTRODUCING CONTRABAND 2	0	0.0%	0.0	2	100.0%	7.5	2	7.5
INVOLVING MINOR IN DRUG DEAL- POST 7/89- 2+ <consp.>	0	0.0%	0.0	1	100.0%	6.0	1	6.0
KIDNAP 1	16	100.0%	159.8	0	0.0%	0.0	16	159.8
KIDNAP 1 <attempt>	1	100.0%	64.0	0	0.0%	0.0	1	64.0
KIDNAP 1	2	100.0%	Life	0	0.0%	0.0	2	Life
KIDNAP 1 W/SEX.MOT-VICT <15 (POST 03/20/06)	1	100.0%	300.0	0	0.0%	0.0	1	300.0
KIDNAP 2	11	73.3%	44.1	4	26.7%	9.8	15	34.9
KIDNAP 2 <attempt>	0	0.0%	0.0	3	100.0%	3.9	3	3.9
KIDNAP 2 <consp.>	2	40.0%	13.0	3	60.0%	4.1	5	7.6
LEADING ORGANIZED CRIME	2	100.0%	164.5	0	0.0%	0.0	2	164.5
LOTTERY ACT VIOLATION	0	0.0%	0.0	2	100.0%	3.5	2	3.5

NOTE:

* Calculations of average sentence length exclude life/death sentences.

** Non-prison includes non-confinement sentences as well as jail sentences

OFFENSE	PRISON			NON-PRISON **			TOTAL	
	(N)	%	Months	(N)	%	Months	(N)	Months
LOTTERY ACT VIOLATION <attempt>	0	0.0%	0.0	1	100.0%	0.3	1	0.3
LURING OF CHILD	2	16.7%	18.0	10	83.3%	3.6	12	6.0
M/D/P W/I AMPHET - 1ST OFF (POST 6/10/98)	4	100.0%	40.5	0	0.0%	0.0	4	40.5
M/D/P W/I HER COC - SCH Z (POST 6/30/02) (L7)	20	100.0%	58.4	0	0.0%	0.0	20	58.4
M/D/P W/I HER COC - SCH Z (POST 6/30/02) (L8) <consp.>	0	0.0%	0.0	1	100.0%	6.4	1	6.4
M/D/P W/I HER COC (POST 6/30/02) (L7)	375	88.2%	30.4	50	11.8%	1.4	425	27.0
M/D/P W/I HER COC (POST 6/30/02) (L7) <attempt>	4	33.3%	14.0	8	66.7%	4.4	12	7.6
M/D/P W/I HER COC (POST 6/30/02) (L7) <consp.>	10	4.8%	16.7	199	95.2%	4.2	209	4.8
M/D/P W/I HER COC (POST 6/30/02) (L7) <solic.>	31	44.9%	27.6	38	55.1%	8.4	69	17.0
M/D/P W/I HER COC (POST 6/30/02) (L8)	3	100.0%	31.4	0	0.0%	0.0	3	31.4
M/D/P W/I HER COC (POST 6/30/02) (L8) <consp.>	0	0.0%	0.0	6	100.0%	6.2	6	6.2
M/D/P W/I HER COC (POST 6/30/02) (L8) <solic.>	1	50.0%	45.0	1	50.0%	9.0	2	27.0
M/D/P W/I HER COC (PRE 7/1/02)	1	100.0%	12.0	0	0.0%	0.0	1	12.0
M/D/P W/I HER COC (PRE 7/1/02) <consp.>	0	0.0%	0.0	2	100.0%	6.5	2	6.5
M/D/P W/I HER COC (PRE 7/1/02) <solic.>	2	100.0%	30.4	0	0.0%	0.0	2	30.4
M/D/P W/I HER COC 2+ (POST 6/30/02) (L7)	19	100.0%	39.3	0	0.0%	0.0	19	39.3
M/D/P W/I HER COC 2+ (POST 6/30/02) (L7) <consp.>	0	0.0%	0.0	7	100.0%	6.9	7	6.9
M/D/P W/I HER COC 2+ (POST 6/30/02) (L7) <solic.>	1	100.0%	26.3	0	0.0%	0.0	1	26.3
M/D/P W/I HER COC 2+ (POST 6/30/02) (L8)	3	100.0%	46.7	0	0.0%	0.0	3	46.7
M/D/P W/I HER COC 2+ (POST 6/30/02) (L8) <consp.>	0	0.0%	0.0	3	100.0%	3.0	3	3.0
M/D/P W/I IMITATION CTRL SUBS-POST 7/89	1	100.0%	26.0	0	0.0%	0.0	1	26.0
M/D/P W/I MARIJ - 1ST OFF	52	9.6%	14.9	488	90.4%	2.6	540	3.8
M/D/P W/I MARIJ - 1ST OFF <attempt>	0	0.0%	0.0	18	100.0%	2.9	18	2.9
M/D/P W/I MARIJ - 1ST OFF <consp.>	1	3.7%	16.0	26	96.3%	2.6	27	3.1
M/D/P W/I MARIJ - 2ND OFFENSE	5	71.4%	21.2	2	28.6%	0.5	7	15.3
M/D/P W/I MARIJ - 2ND OFFENSE <consp.>	0	0.0%	0.0	1	100.0%	1.0	1	1.0
M/D/P W/I MARIJ - CORR FAC	1	100.0%	15.0	0	0.0%	0.0	1	15.0
M/D/P W/I MARIJ - SCH ZONE	6	100.0%	48.0	0	0.0%	0.0	6	48.0
M/D/P W/I OTH,EXC MJ/METH/AMP/FLUN-1ST(POST 6/98)	2	100.0%	40.0	0	0.0%	0.0	2	40.0
M/D/P W/I OTH,EXC MJ/METH/AMP/FLUN-SZ(POST 6/98)	1	100.0%	36.0	0	0.0%	0.0	1	36.0

NOTE:

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** Non-prison includes non-confinement sentences as well as jail sentences

OFFENSE	PRISON			NON-PRISON **			TOTAL	
	(N)	%	Months	(N)	%	Months	(N)	Months
M/D/P W/I SC I/I NARC OR FLUNT-1ST OFF	81	84.4%	20.0	15	15.6%	0.1	96	16.9
M/D/P W/I SC I/I NARC OR FLUNT-1ST OFF <attempt>	0	0.0%	0.0	6	100.0%	5.6	6	5.6
M/D/P W/I SC I/I NARC OR FLUNT-1ST OFF <consp.>	1	4.0%	29.0	24	96.0%	3.0	25	4.0
M/D/P W/I SC I/I NARC OR FLUNT-1ST OFF <solic.>	1	100.0%	60.0	0	0.0%	0.0	1	60.0
MAINTN PLACE FOR DRUGS (69.50)- 1ST (POST 7/24/99)	4	100.0%	26.5	0	0.0%	0.0	4	26.5
MALICIOUS HARASSMENT	4	26.7%	21.8	11	73.3%	4.6	15	9.2
MALICIOUS MISCHIEF 1	14	21.5%	26.4	51	78.5%	2.9	65	7.9
MALICIOUS MISCHIEF 1 <attempt>	1	33.3%	16.5	2	66.7%	5.6	3	9.2
MALICIOUS MISCHIEF 2	40	13.7%	18.4	253	86.3%	1.9	293	4.2
MALICIOUS PLACEMENT OF EXPLOSIVES 3 (POST 7/26/97) <attempt>	1	100.0%	15.8	0	0.0%	0.0	1	15.8
MALICIOUS PROSECUTION	0	0.0%	0.0	1	100.0%	2.0	1	2.0
MANSLAUGHTER 1 (POST 7/26/97)	22	100.0%	125.6	0	0.0%	0.0	22	125.6
MANSLAUGHTER 1 (POST 7/26/97) <attempt>	1	100.0%	74.0	0	0.0%	0.0	1	74.0
MANSLAUGHTER 1 (POST 7/26/97) <consp.>	3	100.0%	62.5	0	0.0%	0.0	3	62.5
MANSLAUGHTER 1 (PRE 7/27/97)	1	100.0%	116.0	0	0.0%	0.0	1	116.0
MANSLAUGHTER 2 (POST 7/26/97)	16	94.1%	66.7	1	5.9%	9.0	17	63.3
MANSLAUGHTER 2 (POST 7/26/97) <attempt>	1	100.0%	60.0	0	0.0%	0.0	1	60.0
MEDICAID FRAUD	0	0.0%	0.0	2	100.0%	1.6	2	1.6
MEDICAL MARIJUANA FRADULENT RECORDS	0	0.0%	0.0	1	100.0%	0.5	1	0.5
MFG METH - 1ST OFFENSE (POST 6/30/98)	21	100.0%	69.1	0	0.0%	0.0	21	69.1
MFG METH - 1ST OFFENSE (POST 6/30/98) <attempt>	0	0.0%	0.0	2	100.0%	7.5	2	7.5
MFG METH - 1ST OFFENSE (POST 6/30/98) <consp.>	0	0.0%	0.0	13	100.0%	6.8	13	6.8
MFG METH - 2ND OFFENSE (POST 6/30/98)	1	100.0%	108.0	0	0.0%	0.0	1	108.0
MFG METH - SCH ZONE OFF (POST 6/30/98)	5	100.0%	98.6	0	0.0%	0.0	5	98.6
MONEY LAUNDERING	2	8.7%	73.0	21	91.3%	3.1	23	9.2
MONEY LAUNDERING <attempt>	0	0.0%	0.0	2	100.0%	0.8	2	0.8
MONEY LAUNDERING <consp.>	0	0.0%	0.0	1	100.0%	9.0	1	9.0
MURDER 1 (POST 7/24/99)	29	100.0%	491.9	0	0.0%	0.0	29	491.9
MURDER 1 (POST 7/24/99) <attempt>	11	100.0%	328.6	0	0.0%	0.0	11	328.6
MURDER 1 (POST 7/24/99) <solic.>	2	100.0%	418.5	0	0.0%	0.0	2	418.5
MURDER 1 (POST 7/24/99) <attempt>	1	100.0%	Life	0	0.0%	0.0	1	Life
MURDER 1 - PRE 7/1/90	4	100.0%	531.8	0	0.0%	0.0	4	531.8

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OFFENSE	PRISON			NON-PRISON **			TOTAL	
	(N)	%	Months	(N)	%	Months	(N)	Months
MURDER 1 (7/1/90-7/24/99)	2	100.0%	461.0	0	0.0%	0.0	2	461.0
MURDER 2 (POST 7/24/99)	48	100.0%	210.5	0	0.0%	0.0	48	210.5
MURDER 2 (POST 7/24/99) <attempt>	5	100.0%	164.4	0	0.0%	0.0	5	164.4
MURDER 2 (POST 7/24/99) <consp.>	1	100.0%	86.0	0	0.0%	0.0	1	86.0
MURDER 2 (POST 7/24/99) <solic.>	1	100.0%	244.0	0	0.0%	0.0	1	244.0
OBTAIN SIGNATURE BY DECEPTION	0	0.0%	0.0	1	100.0%	0.0	1	0.0
OFFER FALSE DOCUMENT	0	0.0%	0.0	2	100.0%	0.5	2	0.5
ORGANIZED RETAIL THEFT 1	1	25.0%	29.8	3	75.0%	3.3	4	9.9
ORGANIZED RETAIL THEFT 2	16	30.8%	25.6	36	69.2%	2.2	52	9.4
OVER 18 - DEL OTH TO MINOR	1	100.0%	60.0	0	0.0%	0.0	1	60.0
OVER 18 - DEL S I/II NARC/FLUNT/METH MINOR	2	100.0%	48.9	0	0.0%	0.0	2	48.9
OWNER OF DOG THAT ATTACKS	0	0.0%	0.0	1	100.0%	3.0	1	3.0
PATRONIZING A JUV PROSTITUTE (POST 6/30/01)	0	0.0%	0.0	1	100.0%	3.0	1	3.0
PERJURY 1	1	50.0%	62.0	1	50.0%	3.0	2	32.5
PERJURY 2	2	16.7%	17.0	10	83.3%	1.7	12	4.2
PERSISTENT PRISON MISBEHAVIOR	0	0.0%	0.0	1	100.0%	7.1	1	7.1
POS CNTL SUBS - BY PRISONERS	0	0.0%	0.0	16	100.0%	2.5	16	2.5
POS CNTL SUBS - OTHER EXC.PCP/FLUNIT	470	21.5%	15.8	1711	78.5%	2.2	2181	5.1
POS CNTL SUBS - OTHER EXC.PCP/FLUNIT <attempt>	1	1.0%	12.0	100	99.0%	2.6	101	2.7
POS CNTL SUBS - OTHER EXC.PCP/FLUNIT <consp.>	0	0.0%	0.0	93	100.0%	2.9	93	2.9
POS CNTL SUBS - SCH I/II IN CORR FACIL	1	50.0%	24.0	1	50.0%	0.0	2	12.0
POS CNTL SUBS SCH I/II OR FLUNIT	285	23.4%	16.2	934	76.6%	2.3	1219	5.5
POS CNTL SUBS SCH I/II OR FLUNIT <attempt>	0	0.0%	0.0	70	100.0%	3.4	70	3.4
POS CNTL SUBS SCH I/II OR FLUNIT <consp.>	0	0.0%	0.0	55	100.0%	2.5	55	2.5
POS DEPICTION OF MINORS - POST 06/07/06	25	80.6%	34.9	6	19.4%	3.1	31	28.7
POS DEPICTION OF MINORS - POST 06/07/06 <attempt>	0	0.0%	0.0	4	100.0%	9.4	4	9.4
POS EPHEID/PSEUDO/AMMO W/II MFG METH-1ST (POST6/00)	2	100.0%	40.4	0	0.0%	0.0	2	40.4
POS EPHEID/PSEUDO/AMMO W/II MFG METH-1ST (POST6/00) <attempt>	1	100.0%	44.6	0	0.0%	0.0	1	44.6
POS MACH GUN/SHOT BARL SHOT GUN (POST 7/24/99)	1	11.1%	15.0	8	88.9%	1.9	9	3.4
POS PHENCYCLIDINE (PCP)	0	0.0%	0.0	2	100.0%	2.0	2	2.0
POS PHENCYCLIDINE (PCP) <consp.>	0	0.0%	0.0	1	100.0%	2.2	1	2.2

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	(N)	%	Months	(N)	%	Months	(N)	Months
POS STOLEN FIREARM	27	50.9%	38.4	26	49.1%	4.1	53	21.6
POS STOLEN FIREARM <attempt>	0	0.0%	0.0	1	100.0%	4.5	1	4.5
POS STOLEN PROPERTY 1	25	30.9%	24.6	56	69.1%	3.0	81	9.7
POS STOLEN PROPERTY 1 <attempt>	1	100.0%	24.8	0	0.0%	0.0	1	24.8
POS STOLEN PROPERTY 1 <solic.>	0	0.0%	0.0	1	100.0%	1.0	1	1.0
POS STOLEN PROPERTY 2	86	25.0%	20.0	258	75.0%	2.3	344	6.7
POS STOLEN VEHICLE	228	59.5%	32.1	155	40.5%	2.6	383	20.1
POS STOLEN VEHICLE <attempt>	7	87.5%	29.6	1	12.5%	1.0	8	26.0
POS STOLEN VEHICLE <consp.>	0	0.0%	0.0	2	100.0%	9.5	2	9.5
PRACTICE OF PROFESSION W/O LICENSE	0	0.0%	0.0	1	100.0%	0.0	1	0.0
PROMOTING PROSTITUTION 1	7	100.0%	31.3	0	0.0%	0.0	7	31.3
PROMOTING PROSTITUTION 1 <attempt>	2	100.0%	71.3	0	0.0%	0.0	2	71.3
PROMOTING PROSTITUTION 1 <consp.>	2	100.0%	87.0	0	0.0%	0.0	2	87.0
PROMOTING PROSTITUTION 2	5	33.3%	26.6	10	66.7%	2.7	15	10.7
RAPE 1 (POST 8/31/01) (.712)	11	100.0%	198.7	0	0.0%	0.0	11	198.7
RAPE 1 (POST 8/31/01) (.712) <attempt>	1	100.0%	72.0	0	0.0%	0.0	1	72.0
RAPE 1 (POST 8/31/01) (.712)	3	100.0%	Life	0	0.0%	0.0	3	Life
RAPE 2 (7/27/97 - 8/31/01)	1	100.0%	146.0	0	0.0%	0.0	1	146.0
RAPE 2 (POST 8/31/01) (.712)	27	90.0%	149.4	3	10.0%	8.3	30	135.3
RAPE 2 (POST 8/31/01) (.712) <attempt>	3	100.0%	119.0	0	0.0%	0.0	3	119.0
RAPE 2 (POST 8/31/01) (.712)	1	100.0%	Life	0	0.0%	0.0	1	Life
RAPE 3	25	52.1%	27.2	23	47.9%	9.2	48	18.5
RAPE OF A CHILD 1 (7/27/97 - 8/31/01)	9	64.3%	172.3	5	35.7%	7.4	14	113.4
RAPE OF A CHILD 1 (7/90 - 7/26/97)	1	100.0%	102.0	0	0.0%	0.0	1	102.0
RAPE OF A CHILD 1 .712 >=18 /FEE (POST 07/22/07)	1	100.0%	160.0	0	0.0%	0.0	1	160.0
RAPE OF A CHILD 1 <18 (POST 8/31/01)	7	100.0%	155.3	0	0.0%	0.0	7	155.3
RAPE OF A CHILD 1 >17 (POST 8/31/01) (.712)	49	73.1%	200.7	18	26.9%	10.0	67	149.5
RAPE OF A CHILD 1 >17 (POST 8/31/01) (.712) <attempt>	1	100.0%	180.0	0	0.0%	0.0	1	180.0
RAPE OF A CHILD 1 >17 (POST 8/31/01) (.712) <consp.>	1	100.0%	180.0	0	0.0%	0.0	1	180.0
RAPE OF A CHILD 1 >17 (POST 8/31/01) (.712) <solic.>	1	100.0%	45.0	0	0.0%	0.0	1	45.0
RAPE OF A CHILD 2 (7/27/97 - 8/31/01)	3	75.0%	145.7	1	25.0%	12.0	4	112.3
RAPE OF A CHILD 2 (PRE 7/90)	1	100.0%	120.0	0	0.0%	0.0	1	120.0
RAPE OF A CHILD 2 <18 (POST 8/31/01)	2	100.0%	112.5	0	0.0%	0.0	2	112.5
RAPE OF A CHILD 2 <18 (POST 8/31/01) <solic.>	1	100.0%	174.0	0	0.0%	0.0	1	174.0

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OFFENSE	PRISON			NON-PRISON **			TOTAL	
	(N)	%	Months	(N)	%	Months	(N)	Months
RAPE OF A CHILD 2 >17 (POST 8/31/01) (.712)	40	83.3%	148.2	8	16.7%	9.4	48	125.0
RAPE OF A CHILD 2 >17 (POST 8/31/01) (.712) <attempt>	3	100.0%	78.8	0	0.0%	0.0	3	78.8
RAPE OF A CHILD 2 >17 (POST 8/31/01) (.712)	1	100.0%	Life	0	0.0%	0.0	1	Life
RAPE OF A CHILD 2 PREDATORY (.712) (POST 03/20/06)	1	100.0%	300.0	0	0.0%	0.0	1	300.0
RAPE OF A CHILD 3-POST 7/90	83	83.0%	25.7	17	17.0%	6.7	100	22.5
RECKLESS BURNING 1	2	11.1%	22.0	16	88.9%	2.6	18	4.8
RENDERING CRIMINAL ASSTANCE 1	11	33.3%	27.0	22	66.7%	5.5	33	12.7
RESIDENTIAL BURGLARY-POST 7/90	407	48.4%	34.3	434	51.6%	3.4	841	18.4
RESIDENTIAL BURGLARY-POST 7/90 <attempt>	38	40.9%	29.5	55	59.1%	4.5	93	14.7
RESIDENTIAL BURGLARY-POST 7/90 <consp.>	4	66.7%	49.1	2	33.3%	0.5	6	32.9
RETAIL THEFT W/EXTENU CIRCUMSTN 1	2	100.0%	31.5	0	0.0%	0.0	2	31.5
RETAIL THEFT W/EXTENU CIRCUMSTN 2	6	33.3%	25.2	12	66.7%	2.5	18	10.0
RETAIL THEFT W/EXTENU CIRCUMSTN 3	5	4.7%	17.6	102	95.3%	2.5	107	3.2
RIOT	9	4.4%	19.0	195	95.6%	3.0	204	3.7
ROBBERY 1	315	99.4%	82.4	2	0.6%	12.0	317	82.0
ROBBERY 1 <attempt>	54	94.7%	60.7	3	5.3%	10.7	57	58.1
ROBBERY 1 <consp.>	9	81.8%	47.2	2	18.2%	11.0	11	40.6
ROBBERY 1	2	100.0%	Life	0	0.0%	0.0	2	Life
ROBBERY 2	169	54.5%	30.2	141	45.5%	6.6	310	19.4
ROBBERY 2 <attempt>	19	39.6%	30.5	29	60.4%	4.9	48	15.1
ROBBERY 2 <consp.>	1	25.0%	18.0	3	75.0%	8.3	4	10.7
ROBBERY 2 <solic.>	1	100.0%	60.0	0	0.0%	0.0	1	60.0
ROBBERY 2	3	100.0%	Life	0	0.0%	0.0	3	Life
SECURITY ACT VIOLATION-POST 7/89	1	100.0%	120.0	0	0.0%	0.0	1	120.0
SELL OR DELIVER LEGEND DRUGS	0	0.0%	0.0	2	100.0%	2.1	2	2.1
SELLING FOR PROFIT-POST 7/91 1ST	2	100.0%	88.0	0	0.0%	0.0	2	88.0
SELLING FOR PROFIT-POST 7/91 2ND	1	100.0%	120.0	0	0.0%	0.0	1	120.0
SEND/BRING SEXUAL DEPICTIONS OF MINOR-POST 6/30/01	1	100.0%	36.0	0	0.0%	0.0	1	36.0
SEXUAL EXPLOITATION (POST 6/30/01)	7	70.0%	76.1	3	30.0%	4.3	10	54.6
SEXUAL EXPLOITATION (POST 6/30/01) <attempt>	1	100.0%	57.8	0	0.0%	0.0	1	57.8
SEXUAL MISCONDUCT 1 (POST 7/90)	3	60.0%	31.5	2	40.0%	7.1	5	21.7
SEXUALLY VIOLENT PREDATOR ESCAPE <attempt>	1	100.0%	66.8	0	0.0%	0.0	1	66.8

NOTE:

* Calculations of average sentence length exclude life/death sentences.

** Non-prison includes non-confinement sentences as well as jail sentences

OFFENSE	PRISON			NON-PRISON **			TOTAL	
	(N)	%	Months	(N)	%	Months	(N)	Months
STALKING (POST 6/30/00)	18	64.3%	49.8	10	35.7%	4.9	28	33.8
STATUTORY RAPE 3 (PRE 7/88)	1	100.0%	24.0	0	0.0%	0.0	1	24.0
TAMPERING WITH A WITNESS	26	39.4%	36.8	40	60.6%	4.2	66	17.1
TAMPERING WITH A WITNESS <attempt>	0	0.0%	0.0	1	100.0%	0.7	1	0.7
TELECOMMUNICATIONS FRAUD	0	0.0%	0.0	1	100.0%	0.0	1	0.0
TELEPHONE HARASSMENT (POST 7/24/99)	8	38.1%	26.5	13	61.9%	5.9	21	13.7
THEFT 1	151	25.2%	32.4	448	74.8%	2.8	599	10.2
THEFT 1 <attempt>	14	22.2%	22.8	49	77.8%	3.3	63	7.6
THEFT 1 <solic.>	0	0.0%	0.0	1	100.0%	9.5	1	9.5
THEFT 1 - WELFARE FRAUD	2	10.0%	23.5	18	90.0%	1.0	20	3.2
THEFT 2	193	17.1%	19.7	937	82.9%	2.0	1130	5.0
THEFT 2 - WELFARE FRAUD	0	0.0%	0.0	4	100.0%	0.3	4	0.3
THEFT OF A FIREARM (POST 7/22/95)	39	60.9%	38.6	25	39.1%	1.8	64	24.2
THEFT OF A FIREARM (POST 7/22/95) <attempt>	1	100.0%	12.0	0	0.0%	0.0	1	12.0
THEFT OF MOTOR VEHICLE	71	49.7%	34.7	72	50.3%	3.2	143	18.9
THEFT OF MOTOR VEHICLE <attempt>	13	38.2%	28.3	21	61.8%	3.0	34	12.7
THEFT OF RENTAL OR LEASED PROPERTY (\$250-\$1500)	2	10.0%	17.4	18	90.0%	0.9	20	2.6
THEFT OF RENTAL OR LEASED PROPERTY (<\$1,500)	0	0.0%	0.0	8	100.0%	2.4	8	2.4
THEFT OF TELECOMMUNICATIONS SVC	0	0.0%	0.0	2	100.0%	2.0	2	2.0
THEFT W/ INTENT RESELL 1	0	0.0%	0.0	1	100.0%	2.0	1	2.0
THEFT W/ INTENT RESELL 2	1	16.7%	12.0	5	83.3%	1.6	6	3.3
THREATS TO BOMB - POST 7/89	4	25.0%	20.3	12	75.0%	3.1	16	7.4
THREATS TO BOMB - POST 7/89 <attempt>	0	0.0%	0.0	1	100.0%	12.0	1	12.0
TMVWOP 1 (POST 6/12/02)	4	100.0%	61.5	0	0.0%	0.0	4	61.5
TMVWOP 2 (POST 6/12/02)	179	37.4%	20.1	300	62.6%	2.3	479	8.9
TRAFFICKING IN STOLEN PROP 1	107	47.6%	28.4	118	52.4%	2.8	225	15.0
TRAFFICKING IN STOLEN PROP 1 <attempt>	1	16.7%	27.6	5	83.3%	4.6	6	8.4
TRAFFICKING IN STOLEN PROP 1 <consp.>	2	100.0%	13.4	0	0.0%	0.0	2	13.4
TRAFFICKING IN STOLEN PROP 2	36	23.4%	23.2	118	76.6%	3.6	154	8.1
UNLAWFUL DISCHARGE OF A LASER 1	0	0.0%	0.0	1	100.0%	0.5	1	0.5
UNLAWFUL FACTORING CREDIT/PAY CARD TRANSACTION-1ST	3	75.0%	25.3	1	25.0%	2.0	4	19.5
UNLAWFUL HUNTING BIG GAME - 1ST	0	0.0%	0.0	3	100.0%	8.0	3	8.0
UNLAWFUL IMPRISONMENT	22	26.8%	47.9	60	73.2%	3.3	82	15.3
UNLAWFUL ISSUE OF CHECKS/DRAFT	8	14.3%	26.0	48	85.7%	1.9	56	5.3
UNLAWFUL POSS OF FICTITIOUS IDENTIFICATION	1	50.0%	22.0	1	50.0%	0.8	2	11.4

NOTE:

* Calculations of average sentence length exclude life/death sentences.

** Non-prison includes non-confinement sentences as well as jail sentences

OFFENSE	PRISON			NON-PRISON **			TOTAL	
	(N)	%	Months	(N)	%	Months	(N)	Months
UNLAWFUL POSS OF FIREARM 1	138	97.9%	62.8	3	2.1%	5.0	141	61.6
UNLAWFUL POSS OF FIREARM 1 <attempt>	4	100.0%	23.6	0	0.0%	0.0	4	23.6
UNLAWFUL POSS OF FIREARM 2	126	31.1%	28.7	279	68.9%	4.4	405	12.0
UNLAWFUL POSS OF PAYMENT INSTRUMENTS	5	33.3%	19.0	10	66.7%	2.0	15	7.7
UNLAWFUL PRODUCTION OF PAYMENT INSTRUMENTS	0	0.0%	0.0	2	100.0%	4.0	2	4.0
UNLAWFUL TRAFFICKING FISH OR WILDLIFE - 1ST	0	0.0%	0.0	1	100.0%	0.0	1	0.0
USE BUILDING FOR DRUGS (69.53) (POST 7/24/99)	1	33.3%	12.0	2	66.7%	7.4	3	8.9
USE BUILDING FOR DRUGS (69.53) (PRE 7/25/99)	0	0.0%	0.0	1	100.0%	6.0	1	6.0
VEHICLE PROWL 1	4	33.3%	16.6	8	66.7%	1.9	12	6.8
VEHICULAR ASSAULT DISREGARD SAFETY (POST 7/21/01)	8	15.1%	33.6	45	84.9%	3.6	53	8.1
VEHICULAR ASSAULT DISREGARD SAFETY (POST 7/21/01) <attempt>	0	0.0%	0.0	2	100.0%	4.5	2	4.5
VEHICULAR ASSAULT UND INFL/RECKLESS (POST 7/21/01)	36	33.6%	31.0	71	66.4%	5.7	107	14.2
VEHICULAR ASSAULT UND INFL/RECKLESS (POST 7/21/01) <attempt>	1	100.0%	47.3	0	0.0%	0.0	1	47.3
VEHICULAR HOMICIDE - DISREGARD SAFETY-VIOLENT	11	91.7%	24.5	1	8.3%	6.0	12	23.0
VEHICULAR HOMICIDE - DRUNK (POST 6/5/96)	19	100.0%	64.7	0	0.0%	0.0	19	64.7
VEHICULAR HOMICIDE - RECKLESS MANNER (POST 6/5/96)	6	100.0%	27.2	0	0.0%	0.0	6	27.2
VIOLATION OF FOREIGN PROTECTION ORDER	2	4.0%	16.5	48	96.0%	5.0	50	5.4
VIOLATION OF SUSPEN OF DEPT. PRIVILEGES 1ST DEG.	0	0.0%	0.0	1	100.0%	0.2	1	0.2
VOTER REGISTRATION VIOLATION	0	0.0%	0.0	1	100.0%	1.0	1	1.0
VOYEURISM	1	5.6%	120.0	17	94.4%	3.4	18	9.9
VOYEURISM (POST 06/07/06)	1	10.0%	12.0	9	90.0%	3.8	10	4.6
VUCSA - GENERIC	0	0.0%	0.0	1	100.0%	9.0	1	9.0
VUCSA - GENERIC <consp.>	0	0.0%	0.0	1	100.0%	1.5	1	1.5
WEAP POSS BY PRISONER/COUNTY FACILITY	0	0.0%	0.0	3	100.0%	1.2	3	1.2
	8,490	37.5%	41.8	14,172	62.5%	3.0	22,662	17.5

NOTE:

* Calculations of average sentence length exclude life/death sentences.

** Non-prison includes non-confinement sentences as well as jail sentences

**Table 3A. Sentencing Grid Frequencies
Fiscal Year 2010**

SERIOUSNESS LEVEL	OFFENDER SCORE										TOTAL
	0	1	2	3	4	5	6	7	8	9	
XVI	8	0	0	0	0	0	0	0	0	0	8
XV	16	2	6	2	1	4	2	4	1	6	44
XIV	36	3	3	5	2	1	2	1	0	4	57
XIII	1	0	2	0	0	0	0	1	0	0	4
XII	51	14	19	49	4	13	20	7	6	23	206
XI	39	7	9	24	9	4	6	4	1	18	121
X	52	3	7	36	6	5	20	8	5	22	164
IX	107	44	64	41	36	34	22	29	11	61	449
VIII	22	4	6	8	6	5	4	4	6	4	69
VII	117	42	45	64	42	36	42	26	17	54	485
VI	84	34	15	40	8	8	16	6	4	30	245
V	312	158	143	122	84	86	49	40	21	81	1,096
IV	870	451	328	210	190	159	105	93	68	328	2,802
III	1,334	741	536	313	254	194	165	119	85	304	4,045
II	567	311	200	208	138	154	141	112	88	495	2,414
I	1,001	523	347	308	236	233	144	138	127	507	3,564
Unranked	1,687	9	9	13	7	6	2	1	3	5	1,742
TOTAL	6,304	2,346	1,739	1,443	1,023	942	740	593	443	1,942	17,515

NOTE: The shaded area in the table indicates offenses with a presumptive sentence of one year or less (non-prison). Sentences imposed under the Drug Grid are excluded.

**Table 3B. Drug Sentencing Grid Frequencies
Fiscal Year 2010**

SERIOUSNESS LEVEL	OFFENDER SCORE			TOTAL
	0 - 2	3 - 5	6 - 9	
III	23	7	16	46
II	504	303	212	1,019
I	2,573	804	705	4,082
TOTAL	3,100	1,114	933	5,147

NOTE: The drug grid (RCW 9.94A.517) applies to offenses committed on or after July 1, 2003.

**Table 4. Number of Sentences for Violent and Nonviolent Offenses
by Facility Type and County
Fiscal Year 2010**

COUNTY	VIOLENT			NONVIOLENT			TOTAL			TOTAL
	Jail	Prison	Other*	Jail	Prison	Other*	Jail	Prison	Other*	
Adams	1	11	0	50	23	0	51	34	0	85
Asotin	1	7	0	80	37	1	81	44	1	126
Benton	15	42	0	451	266	22	466	308	22	796
Chelan	4	13	0	175	69	14	179	82	14	275
Clallam	10	7	0	192	41	26	202	48	26	276
Clark	65	145	0	914	500	14	979	645	14	1,638
Columbia	1	1	0	13	9	1	14	10	1	25
Cowlitz	4	37	0	521	276	77	525	313	77	915
Douglas	0	3	0	89	46	7	89	49	7	145
Ferry	0	1	0	11	0	1	11	1	1	13
Franklin	9	15	0	150	81	1	159	96	1	256
Garfield	0	0	0	5	2	0	5	2	0	7
Grant	19	20	0	268	80	9	287	100	9	396
Grays Harbor	6	21	0	148	83	23	154	104	23	281
Island	5	12	0	82	35	0	87	47	0	134
Jefferson	0	2	0	42	24	8	42	26	8	76
King	151	418	0	1,538	1,175	176	1,689	1,593	176	3,458
Kitsap	17	46	0	550	273	26	567	319	26	912
Kittitas	3	4	0	97	56	1	100	60	1	161
Klickitat	1	3	0	36	22	0	37	25	0	62
Lewis	10	27	0	229	160	20	239	187	20	446
Lincoln	1	1	0	16	4	0	17	5	0	22
Mason	5	21	0	127	100	21	132	121	21	274
Okanogan	2	9	0	115	35	2	117	44	2	163
Pacific	0	7	0	54	30	3	54	37	3	94
Pend Oreille	0	1	0	18	1	3	18	2	3	23
Pierce	121	289	1	2,152	1,263	95	2,273	1,552	96	3,921
San Juan	0	1	0	17	9	1	17	10	1	28
Skagit	17	32	0	315	161	4	332	193	4	529
Skamania	0	4	0	23	1	1	23	5	1	29
Snohomish	49	107	0	774	417	67	823	524	67	1,414
Spokane	67	139	1	1,324	413	136	1,391	552	137	2,080
Stevens	4	9	0	101	28	9	105	37	9	151
Thurston	33	73	0	574	343	15	607	416	15	1,038
Wahkiakum	0	0	0	7	3	0	7	3	0	10
Walla Walla	6	11	0	134	62	4	140	73	4	217
Whatcom	18	60	0	548	265	3	566	325	3	894
Whitman	1	5	0	42	12	3	43	17	3	63
Yakima	27	80	0	677	401	44	704	481	44	1,229
TOTAL	673	1,684	2	12,659	6,806	838	13,332	8,490	840	22,662

* Other sentence includes non-confinement sentences such as residential drug offender sentencing alternative.

**Table 5. Percentage of Sentences for Violent and Nonviolent
Offenses by Facility Type and County
Fiscal Year 2010**

COUNTY	VIOLENT		NONVIOLENT		TOTAL	
	Jail	Prison	Jail	Prison	Jail	Prison
Adams	8.3%	91.7%	68.5%	31.5%	60.0%	40.0%
Asotin	12.5%	87.5%	68.4%	31.6%	64.8%	35.2%
Benton	26.3%	73.7%	62.9%	37.1%	60.2%	39.8%
Chelan	23.5%	76.5%	71.7%	28.3%	68.6%	31.4%
Clallam	58.8%	41.2%	82.4%	17.6%	80.8%	19.2%
Clark	31.0%	69.0%	64.6%	35.4%	60.3%	39.7%
Columbia	50.0%	50.0%	59.1%	40.9%	58.3%	41.7%
Cowlitz	9.8%	90.2%	65.4%	34.6%	62.6%	37.4%
Douglas	0.0%	100.0%	65.9%	34.1%	64.5%	35.5%
Ferry	0.0%	100.0%	100.0%	0.0%	91.7%	8.3%
Franklin	37.5%	62.5%	64.9%	35.1%	62.4%	37.6%
Garfield	n.a.	n.a.	71.4%	28.6%	71.4%	28.6%
Grant	48.7%	51.3%	77.0%	23.0%	74.2%	25.8%
Grays Harbor	22.2%	77.8%	64.1%	35.9%	59.7%	40.3%
Island	29.4%	70.6%	70.1%	29.9%	64.9%	35.1%
Jefferson	0.0%	100.0%	63.6%	36.4%	61.8%	38.2%
King	26.5%	73.5%	56.7%	43.3%	51.5%	48.5%
Kitsap	27.0%	73.0%	66.8%	33.2%	64.0%	36.0%
Kittitas	42.9%	57.1%	63.4%	36.6%	62.5%	37.5%
Klickitat	25.0%	75.0%	62.1%	37.9%	59.7%	40.3%
Lewis	27.0%	73.0%	58.9%	41.1%	56.1%	43.9%
Lincoln	50.0%	50.0%	80.0%	20.0%	77.3%	22.7%
Mason	19.2%	80.8%	55.9%	44.1%	52.2%	47.8%
Okanogan	18.2%	81.8%	76.7%	23.3%	72.7%	27.3%
Pacific	0.0%	100.0%	64.3%	35.7%	59.3%	40.7%
Pend Oreille	0.0%	100.0%	94.7%	5.3%	90.0%	10.0%
Pierce	29.5%	70.5%	63.0%	37.0%	59.4%	40.6%
San Juan	0.0%	100.0%	65.4%	34.6%	63.0%	37.0%
Skagit	34.7%	65.3%	66.2%	33.8%	63.2%	36.8%
Skamania	0.0%	100.0%	95.8%	4.2%	82.1%	17.9%
Snohomish	31.4%	68.6%	65.0%	35.0%	61.1%	38.9%
Spokane	32.5%	67.5%	76.2%	23.8%	71.6%	28.4%
Stevens	30.8%	69.2%	78.3%	21.7%	73.9%	26.1%
Thurston	31.1%	68.9%	62.6%	37.4%	59.3%	40.7%
Wahkiakum	n.a.	n.a.	70.0%	30.0%	70.0%	30.0%
Walla Walla	35.3%	64.7%	68.4%	31.6%	65.7%	34.3%
Whatcom	23.1%	76.9%	67.4%	32.6%	63.5%	36.5%
Whitman	16.7%	83.3%	77.8%	22.2%	71.7%	28.3%
Yakima	25.2%	74.8%	62.8%	37.2%	59.4%	40.6%
TOTAL	28.6%	71.4%	65.0%	35.0%	61.1%	38.9%

NOTE: Excludes offenders not sentenced to either jail or prison.

**Table 6. VUCSA* Dealing and Non-dealing Sentences by County
Fiscal Year 2010**

COUNTY	DEALING	NON-DEALING	TOTAL
Adams	2	12	14
Asotin	22	17	39
Benton	63	179	242
Chelan	51	40	91
Clallam	20	65	85
Clark	87	308	395
Columbia	1	1	2
Cowlitz	22	246	268
Douglas	21	32	53
Ferry	1	0	1
Franklin	11	56	67
Garfield	1	1	2
Grant	11	75	86
Grays Harbor	4	70	74
Island	7	21	28
Jefferson	7	19	26
King	124	249	373
Kitsap	91	173	264
Kittitas	19	42	61
Klickitat	8	5	13
Lewis	34	99	133
Lincoln	1	2	3
Mason	10	73	83
Okanogan	13	23	36
Pacific	7	22	29
Pend Oreille	2	5	7
Pierce	194	791	985
San Juan	1	2	3
Skagit	19	74	93
Skamania	4	3	7
Snohomish	51	212	263
Spokane	101	376	477
Stevens	12	35	47
Thurston	85	145	230
Wahkiakum	0	4	4
Walla Walla	20	36	56
Whatcom	42	170	212
Whitman	8	10	18
Yakima	80	187	267
TOTAL	1,257	3,880	5,137

* Violation of the Uniform Controlled Substance Act.

**Table 7. Sentences with a Deadly Weapon Finding
Fiscal Year 2010**

The table below lists deadly weapon enhancements, by offense and type of weapon, for those sentences that received a deadly weapon enhancement. Deadly weapon enhancements for offenses committed prior to July 24, 1995 do not distinguish firearms from other deadly weapons. Initiative I-159 ("Hard Time for Armed Crime") provides deadly weapon enhancements for any felony offense committed after July 23, 1995. I-159 enhancements are greater for firearms than for other deadly weapons (see RCW 9.94A.533).

OFFENSE	FIREARMS	NON-FIREARMS	TOTAL
AGGRAVATED MURDER 1 (POST 7/24/99)	2	2	4
ASSAULT 1-POST 7/1/90(NEW L12)	24	16	40
ASSAULT 1-POST 7/1/90(NEW L12) <attempt >	0	2	2
ASSAULT 2 - POST 7/1/88	39	77	116
ASSAULT 2 - POST 7/1/88 <attempt >	0	3	3
ASSAULT 3 - POST 7/1/88	0	6	6
ASSAULT OF A CHILD 2	1	0	1
ATTEMPT ELUDE POLICE VEHICLE	0	2	2
BURGLARY 1	13	8	21
BURGLARY 2 (NONDWELLING)-POST 7/90	0	1	1
DEL POS W/ METH - 1ST OFF (POST 6/30/98)	1	3	4
HARASSMENT	1	0	1
INTIMIDATING A PUBLIC SERVANT	0	1	1
INTIMIDATING A WITNESS	0	1	1
KIDNAP 1	2	3	5
KIDNAP 1 <attempt >	0	1	1
KIDNAP 2	0	1	1
M/D/P W/I AMPHET - 1ST OFF (POST 6/10/98)	1	0	1
M/D/P W/I HER COC - SCH Z (POST 6/30/02) (L7)	1	0	1
M/D/P W/I HER COC (POST 6/30/02) (L7)	2	0	2
M/D/P W/I HER COC (POST 6/30/02) (L7) <solic. >	0	1	1
M/D/P W/I IMITATION CTRL SUBS-POST 7/89	0	1	1
M/D/P W/I MARIJ - 1ST OFF	1	0	1
M/D/P W/I OTH,EXC MJ/METH/AMP/FLUN-1ST(POST 6/98)	1	0	1
MALICIOUS HARASSMENT	0	1	1
MALICIOUS MISCHIEF 2	0	1	1
MANSLAUGHTER 1 (POST 7/26/97)	5	3	8
MANSLAUGHTER 2 (POST 7/26/97)	2	0	2
MURDER 1 (POST 7/24/99)	17	5	22
MURDER 1 (POST 7/24/99) <attempt >	2	4	6
MURDER 2 (POST 7/24/99)	8	11	19
MURDER 2 (POST 7/24/99) <attempt >	1	1	2
MURDER 2 (POST 7/24/99) <solic. >	0	1	1
RAPE 1 (POST 8/31/01) (.712)	2	1	3
RAPE 2 (POST 8/31/01) (.712)	0	1	1
RESIDENTIAL BURGLARY-POST 7/90	1	1	2
RIOT	0	13	13
ROBBERY 1	34	26	60
ROBBERY 1 <attempt >	10	6	16
ROBBERY 1 <consp. >	1	0	1
ROBBERY 2	2	17	19
ROBBERY 2 <attempt >	1	0	1
TAMPERING WITH A WITNESS	0	1	1
THEFT 2	1	0	1
UNLAWFUL IMPRISONMENT	1	0	1
VIOLATION OF FOREIGN PROTECTION ORDER	0	2	2
TOTAL	177	224	401

**Table 8. Sentences with a Sexual Motivation Finding
Fiscal Year 2010**

OFFENSES	NUMBER OF SENTENCES WITH SEXUAL MOTIVATION FINDING	TOTAL OF CASES WITH SAME UNDERLYING OFFENSE THAT WAS COMMITTED FOR EACH*
ANIMAL CRUELTY 1	1	17
ASSAULT 2 - POST 7/1/88	16	822
ASSAULT 3 - POST 7/1/88	15	1,371
ASSAULT OF A CHILD 3	1	48
BURGLARY 1	2	135
INDECENT EXPOSURE (POST 7/24/99)	4	27
KIDNAP 1	2	19
LURING OF CHILD	2	12
RESIDENTIAL BURGLARY-POST 7/90	3	940
UNLAWFUL IMPRISONMENT	2	82
TOTAL	48	3,473

* Technically, any felony offense other than a sex offense is eligible for a finding of sexual motivation. This column reflects the total number of sentences for those offenses with at least one sexual motivation finding.

**Table 9. Type of Verdict Imposed by Crime Type
Fiscal Year 2010**

TYPE OF VERDICT	NONVIOLENT		VIOLENT		TOTAL	
	Number	Percent	Number	Percent	Number	Percent
BENCH TRIAL	481	2.4%	26	1.1%	507	2.2%
JURY TRIAL	523	2.6%	302	12.8%	825	3.6%
GUILTY PLEA	19,299	95.1%	2,031	86.1%	21,330	94.1%
TOTAL	20,303	100.0%	2,359	100.0%	22,662	100.0%

**Table 10. Sentence Departures by Type and Direction
Fiscal Year 2010**

SENTENCE TYPE	SENTENCE RELATIVE TO THE STANDARD RANGE			
	BELOW	WITHIN	ABOVE	TOTAL
Exceptional*	568 55.6%	50 4.9%	404 39.5%	1,022 100.0%
SSOSA** (622 Eligible ¹)	130 99.2%	1 0.8%	0 0.0%	131 100.0%
First-time Offender Waiver*** (6827 Eligible ¹)	851 57.9%	606 41.3%	12 0.8%	1,469 100.0%
Prison Drug Offender Sentencing Alternative	853 94.0%	51 5.6%	3 0.3%	907 100.0%
Residential Drug Offender Sentencing Alternative	566 97.4%	15 2.6%	0 0.0%	581 100.0%
Standard****	66 0.4%	18,449 99.4%	37 0.2%	18,552 100.0%
TOTAL	3,034 13.4%	19,172 84.6%	456 2.0%	22,662

* Exceptional sentences include departures above or below the standard range, as well as sentences in which the court orders a term of confinement within the standard range, but under terms of an exceptional sentence adds conditions not allowed as part of the standard range (e.g., treatment).

** Sex offenders who have no prior felony sex convictions may receive a sentence under the Special Sex Offender Sentencing Alternative (SSOSA) if they are not convicted of a serious violent offense with a sexual motivation finding or of Rape 1, Attempted Rape 1, or Rape 2 and have a current offense and criminal history that permits the court to impose a sentence within the standard range of less than eleven years confinement. Under current law, offenders sentenced under this alternative receive a suspended sentence and may receive up to twelve months in jail, community supervision for three years or the length of the suspended sentence (whichever is greater), inpatient or outpatient sex offender treatment, crime-related prohibitions and requirements for affirmative conduct. If the offender violates the conditions of supervision, the original suspended sentence may be imposed.

*** Offenders are eligible for the First-time Offender Waiver if the current offense is not a violent offense, sex offense or certain drug offenses, and if the offender has no prior felony convictions. If the First-time Offender Waiver is used, the standard range is waived and the offender may receive up to 90 days in jail, two years of community supervision, crime-related prohibitions and requirements for affirmative conduct. An aggravated departure occurs when an offender with a 0 to 60-day standard range (a Seriousness Level 1 offense with an offender score of 0) receives a sentence over 60 days (up to 90 days).

**** The Standard Range category includes some sentence departures not resulting from the use of the First-time Offender Waiver, SSOSA or an exceptional sentence. These departures often occur as the result of clerical errors.

¹ These data are not comparable to reports prior to the FY98 report. Prior to FY98, criminal history that had "washed out" was not taken into consideration in determining eligibility.

Table 11. Sentence Departures by Type and Offense
Fiscal Year 2010

OFFENSE	EXCEPTIONAL			SSOSA		FTOW		DOSA		WEC*		TOTAL
	Above	Below	Within	N	%	N	%	N	%	N	%	
AGGRAVATED MURDER 1 (7/1/90-7/24/99)	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
AGGRAVATED MURDER 1 (POST 7/24/99)	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	8
ALIEN IN POSSESSION OF A FIREARM	2	0	0	0	5.3%	0	0.0%	0	0.00%	0	0.00%	38
ALTER OR FORG VEHICLE TITLE	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
ANIMAL CRUELTY 1	0	0	1	0	5.9%	1	5.9%	0	0.00%	0	0.00%	17
ANIMAL FIGHTING	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	6
ARSON 1	3	1	0	0	17.4%	0	0.0%	0	0.00%	0	0.00%	23
ARSON 2	0	4	0	0	10.8%	0	0.0%	0	0.00%	0	0.00%	37
ASSAULT 1-POST 7/1/90(NEW L12)	4	9	0	0	14.9%	0	0.0%	0	0.00%	0	0.00%	87
ASSAULT 2 - POST 7/1/88	36	21	5	0	7.5%	8	1.0%	0	0.00%	0	0.00%	822
ASSAULT 3 - POST 7/1/88	39	38	5	0	6.0%	235	17.1%	24	1.75%	0	0.00%	1,371
ASSAULT BY WATERCRAFT	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
ASSAULT OF A CHILD 1	3	0	0	0	27.3%	0	0.0%	0	0.00%	0	0.00%	11
ASSAULT OF A CHILD 2	2	0	0	0	12.5%	0	0.0%	0	0.00%	0	0.00%	16
ASSAULT OF A CHILD 3	3	1	0	0	8.3%	15	31.3%	0	0.00%	0	0.00%	48
ATTEMPT ELUDE POLICE VEHICLE	8	7	1	0	2.9%	15	2.8%	9	1.65%	0	0.00%	545
BAIL JUMP W/ CLASS A (POST 7/89)	1	0	0	0	20.0%	0	0.0%	0	0.00%	0	0.00%	5
BAIL JUMP W/ CLASS B or C (POST 7/89)	4	12	0	0	5.8%	29	10.5%	13	4.69%	0	0.00%	277
BIGAMY	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	2
BRIBE RCVD BY WITNESS	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
BRIBING A WITNESS	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
BURGLARY 1	4	5	0	0	6.7%	0	0.0%	0	0.00%	1	0.74%	135
BURGLARY 2 - PRE 7/90	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
BURGLARY 2 (NONDWELLING)-POST 7/90	14	19	1	0	3.5%	94	9.8%	76	7.92%	0	0.00%	959
CHEATING 1	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
CHILD MOLEST 1 (7/90 - 8/31/01)	1	1	0	7	12.5%	0	0.0%	0	0.00%	0	0.00%	16
CHILD MOLEST 1 >17 (POST 8/31/01) (.712)	2	4	0	35	5.7%	0	0.0%	0	0.00%	0	0.00%	106
CHILD MOLEST 2 (POST 7/90)	5	1	0	11	6.5%	0	0.0%	0	0.00%	0	0.00%	92
CHILD MOLEST 3 (POST 7/90)	4	3	1	6	13.3%	0	0.0%	0	0.00%	0	0.00%	60
COMMERCIAL FISHING W/O A LICENSE - 1ST	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1

OFFENSE	EXCEPTIONAL			SSOSA		FTOW		DOSA		WEC*		TOTAL	
	Above	Below	Within	%	N	%	N	%	N	%			
COMMERCIAL SEX ABUSE/MINOR - PROMOTE	1	0	0	16.7%	0	0.0%	0	0.0%	0	0.00%	0	0.00%	6
COMMUNICATION WITH A MINOR new	3	0	0	9.1%	1	3.0%	0	0.0%	0	0.00%	0	0.00%	33
COMPUTER TRESPASS 1	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.00%	0	0.00%	3
CRE DEL POS COUNTERFEIT CTRL SUBS NARC	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.00%	0	0.00%	2
1ST OFF													
CRE DEL POS COUNTERFEIT CTRL SUBS NON-NARC 1ST	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
CRIMINAL IMPERSONATION 1	4	0	0	4.3%	0	0.0%	4	4.3%	0	0.00%	0	0.00%	92
CRIMINAL MISTREATMENT 1 (POST 06/07/06)	1	0	0	33.3%	0	0.0%	0	0.0%	0	0.00%	0	0.00%	3
CRIMINAL MISTREATMENT 2	0	0	0	0.0%	0	0.0%	1	100.0%	0	0.00%	0	0.00%	1
CRIMINAL MISTREATMENT 2 (POST 06/07/06)	0	0	0	0.0%	0	0.0%	1	16.7%	0	0.00%	0	0.00%	6
CTRL SUBS HOMICIDE-POST 7/89 -1ST	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.00%	0	0.00%	2
CUSTODIAL ASSAULT - POST 7/89	1	1	0	4.4%	0	0.0%	4	8.9%	0	0.00%	0	0.00%	45
CUSTODIAL INTERFERENCE 1	0	0	0	0.0%	0	0.0%	1	14.3%	0	0.00%	0	0.00%	7
CYBERSTALKING	0	0	0	0.0%	0	0.0%	0	0.0%	1	33.33%	0	0.00%	3
DEALING IN DEPIC. OF MINOR (POST 6/30/01)	1	0	0	33.3%	1	33.3%	0	0.0%	0	0.00%	0	0.00%	3
DEFRAUDING INNKEEPER > \$75	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.00%	0	0.00%	2
DEFRAUDING PUBLIC UTILITY 1	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.00%	0	0.00%	3
DEL MAT IN LIEU OF CS-POST7/89 2+	0	1	0	25.0%	0	0.0%	0	0.0%	1	25.00%	0	0.00%	4
DEL MAT IN LIEU OF CS-POST7/89 -1ST	1	0	0	7.7%	0	0.0%	1	7.7%	1	7.69%	0	0.00%	13
DEL POS W/ METH - 1ST OFF (POST 6/30/98)	13	8	0	4.7%	0	0.0%	0	0.0%	42	9.48%	0	0.00%	443
DEL POS W/ METH - 2ND OFF (POST 6/30/98)	0	1	0	14.3%	0	0.0%	0	0.0%	1	14.29%	0	0.00%	7
DEL POS W/ METH - SCH ZONE OFF (POST 6/30/98)	0	0	0	0.0%	0	0.0%	0	0.0%	6	24.00%	0	0.00%	25
DELIVERY FIREARM TO INELIG PERSON	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.00%	0	0.00%	3
DESECRATION OF A GRAVE SITE	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
DIGITAL SIGNATURE FRAUD	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
DISARM A LAW ENFORCEMENT OR CORR OFFICER	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.00%	0	0.00%	2
DISTRIB / RETAIL TOBACCO PRODT LIC VIO (POST 07/24)	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
DOMESTIC VIOLENCE CT ORDER VIOL (POST 6/30/00)	11	93	0	14.6%	0	0.0%	86	12.1%	35	4.92%	0	0.00%	712
DRIVE- BY SHOOTING (POST 6/30/97)	2	1	0	6.5%	0	0.0%	0	0.0%	0	0.00%	0	0.00%	46
DRIVING UNDER INFLUENCE (FELONY) (POST 07/01/07)	0	8	0	8.0%	0	0.0%	0	0.0%	0	0.00%	0	0.00%	100

OFFENSE	EXCEPTIONAL			SSOSA		FTOW		DOSA		WEC*		TOTAL
	Above	Below	Within	N	%	N	%	N	%	N	%	
ELECTIONS VIOLATION	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
ENDANGERMENT WITH A CONTROLLED SUBSTANCE	1	0	0	0	25.0%	0	0.0%	0	0.00%	0	0.00%	4
ESCAPE 1	0	1	0	0	2.9%	0	0.0%	9	25.71%	0	0.00%	35
ESCAPE 2	1	2	0	0	4.8%	0	0.0%	2	3.23%	0	0.00%	62
ESCAPE FROM COMMUNITY CUSTODY-POST 6/92	2	3	0	0	6.5%	0	0.0%	0	0.00%	0	0.00%	77
EXPLOSIVE DEVICES PROHIBITED	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
EXPLOSIVE LICENSING VIOLATION	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	7
EXTORTION 1	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	5
EXTORTION 2	0	0	0	0	0.0%	1	16.7%	0	0.00%	0	0.00%	6
FAIL TO REGISTER KIDNAPPER - POST 7/24/99	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	14
FAIL TO REGISTER SEX OFF (POST 7/24/99)	2	0	2	0	1.5%	0	0.0%	0	0.00%	0	0.00%	268
FAIL TO REGISTER SEX OFF 2+ (POST 06/07/06)	2	63	1	0	29.1%	0	0.0%	0	0.00%	0	0.00%	227
FAIL TO REGISTER SEX OFF -CL A (PRE 7/27/97)	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
FALSE VERIFICATION FOR WELFARE	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	6
FORGED PRESCRIPTION VUCSA - 1ST	0	2	0	0	1.3%	11	7.2%	4	2.63%	0	0.00%	152
FORGED PRESCRIPTION VUCSA 2+	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	2
FORGED PRESCRIPTION VULDA	0	1	0	0	14.3%	1	14.3%	0	0.00%	0	0.00%	7
FORGERY	5	9	0	0	2.2%	38	6.0%	24	3.82%	0	0.00%	629
HARASSMENT	5	6	3	0	3.7%	84	22.2%	4	1.06%	0	0.00%	379
HARMING A POLICE DOG	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
HIT AND RUN - DEATH (POST 7/21/01)	0	2	0	0	16.7%	0	0.0%	0	0.00%	0	0.00%	12
HIT AND RUN - INJURY (POST 6/7/00)	3	3	0	0	6.8%	17	19.3%	1	1.14%	0	0.00%	88
IDENTITY THEFT (PRE 7/22/01)	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
IDENTITY THEFT 1 (POST 7/21/01)	3	0	0	0	2.8%	31	29.2%	25	23.58%	0	0.00%	106
IDENTITY THEFT 2 (POST 7/21/01)	5	12	2	0	3.2%	72	12.2%	88	14.89%	0	0.00%	591
ILLEGAL TRANSFER OF MOTOR VEHICLE CERTIFICATE	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	8
INCENDIARY DEVICES (POST 7/24/99)	1	0	0	0	25.0%	0	0.0%	0	0.00%	0	0.00%	4
INCEST 1	0	0	0	3	0.0%	0	0.0%	0	0.00%	0	0.00%	21
INCEST 2	1	0	1	0	20.0%	0	0.0%	0	0.00%	0	0.00%	10
INCITING CRIMINAL PROFITEERING	0	0	0	0	0.0%	0	0.0%	1	50.00%	0	0.00%	2
INDECENT EXPOSURE (POST 7/24/99)	1	1	1	0	11.1%	1	3.7%	0	0.00%	0	0.00%	27
INDECENT EXPOSURE (PRE 7/25/99)	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	2

OFFENSE	EXCEPTIONAL			SSOSA		FTOW		DOSA		WEC*		TOTAL
	Above	Below	Within	N	%	N	%	N	%	N	%	
INDECENT LIB / FORCE VICT w/DIMI CAP(POST 03/20/06)	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1
INDECENT LIB -DD VICTM (POST 7/90)	4	3	1	7	14.9%	0	0.0%	0	0.0%	0	0.0%	47
INDECENT LIB W/FORCE (POST 8/31/01) (.712)	1	0	0	1	7.7%	0	0.0%	0	0.0%	0	0.0%	13
INDECENT LIBERTIES BY HEALTHCARE PROVIDER	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1
INJURY-PUBLIC RECORD	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1
INSURANCE FRAUD	1	0	0	0	33.3%	0	0.0%	0	0.0%	0	0.0%	3
INSURANCE FRAUD-FALSE CLAIMS	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	11
INTERFERENCE WITH OFFICER'S DUTIES/HOLDING HOSTAGE	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	2
INTIMIDATING A JUDGE	0	0	0	0	0.0%	1	25.0%	1	25.0%	0	0.0%	4
INTIMIDATING A PUBLIC SERVANT	1	0	0	0	4.5%	3	13.6%	0	0.0%	0	0.0%	22
INTIMIDATING A WITNESS	2	1	0	0	15.8%	0	0.0%	3	15.79%	0	0.0%	19
INTIMIDATION WITH AN EXPLOSIVE	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1
INTRODUCING CONTRABAND 2	0	1	0	0	50.0%	1	50.0%	0	0.0%	0	0.0%	2
INVOLVING MINOR IN DRUG DEAL- POST 7/89- 2+	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1
KIDNAP 1	1	0	0	0	5.3%	0	0.0%	0	0.0%	0	0.0%	19
KIDNAP 1 WSEX.MOT-VICT <15 (POST 03/20/06)	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1
KIDNAP 2	1	1	0	0	8.7%	2	8.7%	0	0.0%	0	0.0%	23
LEADING ORGANIZED CRIME	1	0	0	0	50.0%	0	0.0%	0	0.0%	0	0.0%	2
LOTTERY ACT VIOLATION	0	0	0	0	0.0%	1	33.3%	0	0.0%	0	0.0%	3
LURING OF CHILD	1	0	0	0	8.3%	0	0.0%	0	0.0%	0	0.0%	12
M/D/P W/ AMPHET - 1ST OFF (POST 6/10/88)	0	0	1	0	25.0%	0	0.0%	0	0.0%	0	0.0%	4
M/D/P W/ HER COC - SCH Z (POST 6/30/02) (L7)	2	1	0	0	15.0%	0	0.0%	4	20.0%	0	0.0%	20
M/D/P W/ HER COC - SCH Z (POST 6/30/02) (L8)	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1
M/D/P W/ HER COC (POST 6/30/02) (L7)	8	16	0	0	3.4%	3	0.4%	54	7.55%	0	0.0%	715
M/D/P W/ HER COC (POST 6/30/02) (L8)	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	11
M/D/P W/ HER COC (PRE 7/1/02)	0	0	0	0	0.0%	0	0.0%	1	20.0%	0	0.0%	5
M/D/P W/ HER COC 2+ (POST 6/30/02) (L7)	0	0	0	0	0.0%	0	0.0%	3	11.11%	0	0.0%	27
M/D/P W/ HER COC 2+ (POST 6/30/02) (L8)	0	0	0	0	0.0%	0	0.0%	1	16.67%	0	0.0%	6
M/D/P W/ IMITATION CTRL SUBS-POST 7/89	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1
M/D/P W/ MARIJ - 1ST OFF	10	1	0	0	1.9%	24	4.1%	1	0.17%	0	0.0%	585
M/D/P W/ MARIJ - 2ND OFFENSE	0	0	0	0	0.0%	0	0.0%	1	12.50%	0	0.0%	8
M/D/P W/ MARIJ - CORR FAC	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1

OFFENSE	EXCEPTIONAL			SSOSA		FTOW		DOSA		WEC*		TOTAL
	Above	Below	Within	N	%	N	%	N	%	N	%	
M/D/P W/II MARIJ - SCH ZONE	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	6
M/D/P W/II OTH,EXC MJ/METH/AMP/FLUN-1ST(POST 6/98)	0	0	1	0	50.0%	0	0.0%	0	0.0%	0	0.0%	2
M/D/P W/II OTH,EXC MJ/METH/AMP/FLUN-SZ(POST 6/98)	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1
M/D/P W/II SC III NARC OR FLUNT-1ST OFF	0	1	1	0	1.6%	1	0.8%	6	4.69%	0	0.0%	128
MAINTN PLACE FOR DRUGS (69.50)- 1ST (POST 7/24/99)	0	0	0	0	0.0%	0	0.0%	1	25.00%	0	0.0%	4
MALICIOUS HARASSMENT	0	0	0	0	0.0%	3	20.0%	0	0.0%	0	0.0%	15
MALICIOUS MISCHIEF 1	0	1	0	0	1.5%	4	5.9%	3	4.41%	0	0.0%	68
MALICIOUS MISCHIEF 2	1	3	0	0	1.4%	14	4.8%	4	1.37%	0	0.0%	293
MALICIOUS PLACEMENT OF EXPLOSIVES 3 (POST 7/26/97)	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1
MALICIOUS PROSECUTION	0	0	0	0	0.0%	1	100.0%	0	0.0%	0	0.0%	1
MANSLAUGHTER 1 (POST 7/26/97)	1	5	0	0	23.1%	0	0.0%	0	0.0%	0	0.0%	26
MANSLAUGHTER 1 (PRE 7/27/97)	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1
MANSLAUGHTER 2 (POST 7/26/97)	2	2	0	0	22.2%	0	0.0%	0	0.0%	0	0.0%	18
MEDICAID FRAUD	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	2
MEDICAL MARIJUANA FRAUDULENT RECORDS	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1
MFG METH - 1ST OFFENSE (POST 6/30/98)	1	1	0	0	5.6%	0	0.0%	11	30.56%	0	0.0%	36
MFG METH - 2ND OFFENSE (POST 6/30/98)	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1
MFG METH - SCH ZONE OFF (POST 6/30/98)	0	0	0	0	0.0%	0	0.0%	1	20.00%	0	0.0%	5
MONEY LAUNDERING	2	0	0	0	7.7%	0	0.0%	0	0.0%	0	0.0%	26
MURDER 1 (POST 7/24/99)	1	0	1	0	4.7%	0	0.0%	0	0.0%	0	0.0%	43
MURDER 1 - PRE 7/1/90	1	0	0	0	25.0%	0	0.0%	0	0.0%	0	0.0%	4
MURDER 1 (7/1/90-7/24/99)	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	2
MURDER 2 (POST 7/24/99)	1	2	0	0	5.5%	0	0.0%	0	0.0%	0	0.0%	55
OBTAIN SIGNATURE BY DECEPTION	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1
OFFER FALSE DOCUMENT	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	2
ORGANIZED RETAIL THEFT 1	0	0	0	0	0.0%	0	0.0%	1	25.00%	0	0.0%	4
ORGANIZED RETAIL THEFT 2	0	0	0	0	0.0%	1	1.9%	1	1.92%	0	0.0%	52
OVER 18 - DEL OTH TO MINOR	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1
OVER 18 - DEL \$ III NARC/FLUNT/METH MINOR	0	0	0	0	0.0%	0	0.0%	1	50.00%	0	0.0%	2
OWNER OF DOG THAT ATTACKS	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1
PATRONIZING A JUV PROSTITUTE (POST 6/30/01)	0	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1

OFFENSE	EXCEPTIONAL			SSOSA		FTOW		DOSA		WEC*		TOTAL
	Above	Below	Within	N	%	N	%	N	%	N	%	
PERJURY 1	0	0	0	0	0.0%	1	50.0%	0	0.00%	0	0.00%	2
PERJURY 2	0	1	0	0	8.3%	5	41.7%	0	0.00%	0	0.00%	12
PERSISTENT PRISON MISBEHAVIOR	0	1	0	0	100.0%	0	0.0%	0	0.00%	0	0.00%	1
POS CNTL SUBS - BY PRISONERS	0	0	0	0	0.0%	3	18.8%	0	0.00%	0	0.00%	16
POS CNTL SUBS - OTHER EXC.PCP/FLUNIT	7	28	1	0	1.5%	114	4.8%	26	1.09%	0	0.00%	2,375
POS CNTL SUBS - SCH I/II IN CORR FACIL	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	2
POS CNTL SUBS SCH I/II OR FLUNIT	5	8	0	0	1.0%	60	4.5%	14	1.04%	0	0.00%	1,344
POS DEPICTION OF MINORS - POST 06/07/06	1	0	1	5	5.7%	0	0.0%	0	0.00%	0	0.00%	35
POS EPHED/PSEUDO/AMMO W/ MFG METH-1ST (POST6/00)	0	0	0	0	0.0%	0	0.0%	1	33.33%	0	0.00%	3
POS MACH GUN/SHOT BARL SHOT GUN (POST 7/24/99)	0	1	0	0	11.1%	0	0.0%	0	0.00%	0	0.00%	9
POS PHENCYCLIDINE (PCP)	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	3
POS STOLEN FIREARM	0	3	0	0	5.6%	13	24.1%	3	5.56%	0	0.00%	54
POS STOLEN PROPERTY 1	0	8	0	0	9.6%	2	2.4%	1	1.20%	0	0.00%	83
POS STOLEN PROPERTY 2	1	6	1	0	2.3%	6	1.7%	12	3.49%	0	0.00%	344
POS STOLEN VEHICLE	1	5	0	0	1.5%	9	2.3%	56	14.25%	1	0.25%	393
PRACTICE OF PROFESSION W/O LICENSE	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
PROMOTING PROSTITUTION 1	4	0	0	0	36.4%	0	0.0%	0	0.00%	0	0.00%	11
PROMOTING PROSTITUTION 2	0	0	0	0	0.0%	1	6.7%	1	6.67%	0	0.00%	15
RAPE 1 (POST 8/31/01) (.712)	0	0	1	0	6.7%	0	0.0%	0	0.00%	0	0.00%	15
RAPE 2 (7/27/97 - 8/31/01)	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
RAPE 2 (POST 8/31/01) (.712)	0	0	0	2	5.9%	0	0.0%	0	0.00%	0	0.00%	34
RAPE 3	2	3	3	1	16.7%	0	0.0%	0	0.00%	0	0.00%	48
RAPE OF A CHILD 1 (7/27/97 - 8/31/01)	0	0	0	5	35.7%	0	0.0%	0	0.00%	0	0.00%	14
RAPE OF A CHILD 1 (7/90 - 7/26/97)	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
RAPE OF A CHILD 1 .712 >=18 /FEE (POST 07/22/07)	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
RAPE OF A CHILD 1 <18 (POST 8/31/01)	1	0	0	0	14.3%	0	0.0%	0	0.00%	0	0.00%	7
RAPE OF A CHILD 1 >17 (POST 8/31/01) (.712)	3	1	0	18	25.7%	0	0.0%	0	0.00%	0	0.00%	70
RAPE OF A CHILD 2 (7/27/97 - 8/31/01)	0	0	0	1	25.0%	0	0.0%	0	0.00%	0	0.00%	4
RAPE OF A CHILD 2 (PRE 7/90)	1	0	0	0	100.0%	0	0.0%	0	0.00%	0	0.00%	1
RAPE OF A CHILD 2 <18 (POST 8/31/01)	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	3
RAPE OF A CHILD 2 >17 (POST 8/31/01) (.712)	0	1	0	8	15.4%	0	0.0%	0	0.00%	0	0.00%	52

OFFENSE	EXCEPTIONAL			SSOSA		FTOW		DOSA		WEC*		TOTAL
	Above	Below	Within	%	N	%	N	%	N	%	N	
RAPE OF A CHILD 2 PREDATORY (.712) (POST 03/20/06)	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	1
RAPE OF A CHILD 3-POST 7/90	2	4	1	7.0%	14	14.0%	0	0.0%	0	0.0%	0	100
RECKLESS BURNING 1	0	1	0	5.6%	0	0.0%	4	22.2%	0	0.0%	0	18
RENDERING CRIMINAL ASSISTANCE 1	1	5	0	18.2%	0	0.0%	6	18.2%	2	6.06%	0	33
RESIDENTIAL BURGLARY-POST 7/90	12	11	2	2.7%	0	0.0%	150	16.0%	135	14.36%	1	940
RETAIL THEFT W/EXTENU CIRCUMSTN 1	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	2
RETAIL THEFT W/EXTENU CIRCUMSTN 2	1	0	0	5.6%	0	0.0%	2	11.1%	0	0.0%	0	18
RETAIL THEFT W/EXTENU CIRCUMSTN 3	4	0	1	4.7%	0	0.0%	3	2.8%	1	0.93%	0	107
RIOT	4	0	0	2.0%	0	0.0%	4	2.0%	0	0.0%	0	204
ROBBERY 1	6	11	1	4.7%	0	0.0%	0	0.0%	0	0.0%	0	387
ROBBERY 2	10	8	6	6.6%	0	0.0%	5	1.4%	2	0.55%	0	366
SECURITY ACT VIOLATION-POST 7/89	1	0	0	100.0%	0	0.0%	0	0.0%	0	0.0%	0	1
SELL OR DELIVER LEGEND DRUGS	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	2
SELLING FOR PROFIT-POST 7/91 1ST	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	2
SELLING FOR PROFIT-POST 7/91 2ND	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	1
SEND/BRING SEXUAL DEPICTIONS OF MINOR-POST 6/30/01	0	1	0	100.0%	0	0.0%	0	0.0%	0	0.0%	0	1
SEXUAL EXPLOITATION (POST 6/30/01)	1	0	0	9.1%	3	27.3%	0	0.0%	0	0.0%	0	11
SEXUAL MISCONDUCT 1 (POST 7/90)	0	0	0	0.0%	1	20.0%	0	0.0%	0	0.0%	0	5
SEXUALLY VIOLENT PREDATOR ESCAPE	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	1
STALKING (POST 6/30/00)	2	1	0	10.7%	0	0.0%	3	10.7%	0	0.0%	0	28
STATUTORY RAPE 3 (PRE 7/88)	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	1
TAMPERING WITH A WITNESS	1	2	0	4.5%	0	0.0%	5	7.5%	1	1.49%	0	67
TELECOMMUNICATIONS FRAUD	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	1
TELEPHONE HARASSMENT (POST 7/24/99)	0	2	0	9.5%	0	0.0%	3	14.3%	1	4.76%	0	21
THEFT 1	36	12	0	7.2%	0	0.0%	72	10.9%	26	3.92%	0	663
THEFT 1 - WELFARE FRAUD	0	0	0	0.0%	0	0.0%	3	15.0%	1	5.00%	0	20
THEFT 2	10	13	1	2.1%	0	0.0%	47	4.2%	27	2.39%	0	1,130
THEFT 2 - WELFARE FRAUD	0	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	4
THEFT OF A FIREARM (POST 7/22/95)	0	2	0	3.1%	0	0.0%	18	27.7%	8	12.31%	0	65
THEFT OF MOTOR VEHICLE	1	1	0	1.1%	0	0.0%	9	5.1%	14	7.91%	1	177
THEFT OF RENTAL OR LEASED PROPERTY (\$250-\$1500)	0	0	0	0.0%	0	0.0%	1	5.0%	1	5.00%	0	20

OFFENSE	EXCEPTIONAL			SSOSA		FTOW		DOSA		WEC*		TOTAL
	Above	Below	Within	N	%	N	%	N	%	N	%	
THEFT OF RENTAL OR LEASED PROPERTY (<\$1,500)	0	0	0	0	0.0%	1	12.5%	0	0.00%	0	0.00%	8
THEFT OF TELECOMMUNICATIONS SVC	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	2
THEFT W/INTENT RESELL 1	0	0	0	0	0.0%	1	100.0%	0	0.00%	0	0.00%	1
THEFT W/INTENT RESELL 2	1	0	0	0	16.7%	0	0.0%	0	0.00%	0	0.00%	6
THREATS TO BOMB - POST 7/89	1	3	0	0	23.5%	4	23.5%	0	0.00%	0	0.00%	17
TMVWOP 1 (POST 6/12/02)	0	0	0	0	0.0%	0	0.0%	1	25.00%	0	0.00%	4
TMVWOP 2 (POST 6/12/02)	2	8	0	0	2.1%	10	2.1%	24	5.01%	0	0.00%	479
TRAFFICKING IN STOLEN PROP 1	4	4	0	0	3.4%	51	21.9%	32	13.73%	0	0.00%	233
TRAFFICKING IN STOLEN PROP 2	0	4	0	0	2.6%	17	11.0%	14	9.09%	0	0.00%	154
UNLAWFUL DISCHARGE OF A LASER 1	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
UNLAWFUL FACTORING CREDIT/PAY CARD TRANSACTION-1ST	0	1	0	0	25.0%	0	0.0%	1	25.00%	0	0.00%	4
UNLAWFUL HUNTING BIG GAME - 1ST	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	3
UNLAWFUL IMPRISONMENT	2	2	1	0	6.1%	9	11.0%	2	2.44%	0	0.00%	82
UNLAWFUL ISSUE OF CHECKS/DRAFT	1	2	0	0	5.4%	2	3.6%	1	1.79%	0	0.00%	56
UNLAWFUL POSS OF FICTITIOUS IDENTIFICATION	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	2
UNLAWFUL POSS OF FIREARM 1	3	6	0	0	6.2%	0	0.0%	14	9.66%	0	0.00%	145
UNLAWFUL POSS OF FIREARM 2	14	8	0	0	5.4%	6	1.5%	17	4.20%	0	0.00%	405
UNLAWFUL POSS OF PAYMENT INSTRUMENTS	0	0	0	0	0.0%	1	6.7%	1	6.67%	0	0.00%	15
UNLAWFUL PRODUCTION OF PAYMENT INSTRUMENTS	0	1	0	0	50.0%	0	0.0%	0	0.00%	0	0.00%	2
UNLAWFUL TRAFFICKING FISH OR WILDLIFE - 1ST	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
USE BUILDING FOR DRUGS (69.53) (POST 7/24/99)	1	1	0	0	66.7%	0	0.0%	0	0.00%	0	0.00%	3
USE BUILDING FOR DRUGS (69.53) (PRE 7/25/99)	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
VEHICLE PROWL 1	0	0	0	0	0.0%	0	0.0%	2	16.67%	0	0.00%	12
VEHICULAR ASSAULT DISREGARD SAFETY (POST 7/21/01)	1	0	0	0	1.8%	8	14.5%	0	0.00%	0	0.00%	55
VEHICULAR ASSAULT UND INFL/RECKLESS (POST 7/21/01)	4	2	0	0	5.6%	0	0.0%	0	0.00%	0	0.00%	108
VEHICULAR HOMICIDE - DISREGARD SAFETY-VIOLENT	0	2	0	0	16.7%	0	0.0%	0	0.00%	0	0.00%	12
VEHICULAR HOMICIDE - DRUNK (POST 6/5/96)	1	1	0	0	10.5%	0	0.0%	0	0.00%	0	0.00%	19

OFFENSE	EXCEPTIONAL			SSOSA		FTOW		DOSA		WEC*		TOTAL
	Above	Below	Within	N	%	N	%	N	%	N	%	
VEHICULAR HOMICIDE - RECKLESS MANNER (POST 6/6/96)	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	6
VIOLATION OF FOREIGN PROTECTION ORDER	2	0	0	0	4.0%	0	0.0%	0	0.00%	0	0.00%	50
VIOLATION OF SUSPEN OF DEPT. PRIVILEGES 1ST DEG.	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
VOTER REGISTRATION VIOLATION	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	1
VOYEURISM	1	0	1	0	11.1%	0	0.0%	0	0.00%	0	0.00%	18
VOYEURISM (POST 06/07/06)	0	0	0	1	0.0%	0	0.0%	0	0.00%	0	0.00%	10
VUCSA - GENERIC	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	2
WEAP POSS BY PRISONER/COUNTY FACILITY	0	0	0	0	0.0%	0	0.0%	0	0.00%	0	0.00%	3
TOTAL ALL OFFENSES	404	568	50	131	4.5%	1,469	6.5%	907	4.0%	4	0.0%	22,662

WEC*: Work Ethic Camp

Table 12. Length of Sentence Relative to Standard Range ^{1 2}
Fiscal Year 2010

OFFENSE	SENTENCE RELATIVE TO STANDARD RANGE			AVERAGE OF WHERE IN THE RANGE?
	Below	Within	Above	
<Death Sent> AGGRAVATED MURDER 1 (POST 7/24/99)	0	1	0	n.a.
<Life Sent> AGGRAVATED MURDER 1 (7/1/90-7/24/99)	0	1	0	n.a.
<Life Sent> AGGRAVATED MURDER 1 (POST 7/24/99)	0	7	0	n.a.
<Life Sent> ASSAULT 1-POST 7/1/90(NEW L12)	0	3	0	n.a.
<Life Sent> ASSAULT 2 - POST 7/1/88	0	1	0	n.a.
<Life Sent> ASSAULT 3 - POST 7/1/88	0	1	0	n.a.
<Life Sent> KIDNAP 1	0	2	0	n.a.
<Life Sent> MURDER 1 (POST 7/24/99)	0	1	0	n.a.
<Life Sent> RAPE 1 (POST 8/31/01) (.712)	0	3	0	n.a.
<Life Sent> RAPE 2 (POST 8/31/01) (.712)	0	1	0	n.a.
<Life Sent> RAPE OF A CHILD 2 >17 (POST 8/31/01) (.712)	0	1	0	n.a.
<Life Sent> ROBBERY 1	0	2	0	n.a.
<Life Sent> ROBBERY 2	0	3	0	n.a.
ALIEN IN POSSESSION OF A FIREARM	0	36	2	23.5%
ALTER OR FORG VEHICLE TITLE	0	1	0	83.3%
ANIMAL CRUELTY 1	0	17	0	41.4%
ANIMAL FIGHTING	0	6	0	7.6%
ARSON 1	1	19	3	48.5%
ARSON 2	4	33	0	29.4%
ASSAULT 1-POST 7/1/90(NEW L12)	9	71	4	43.3%
ASSAULT 2 - POST 7/1/88	27	756	38	38.8%
ASSAULT 3 - POST 7/1/88	210	1,119	41	36.0%
ASSAULT BY WATERCRAFT	0	1	0	50.0%
ASSAULT OF A CHILD 1	0	7	4	82.6%
ASSAULT OF A CHILD 2	0	14	2	44.3%
ASSAULT OF A CHILD 3	10	35	3	45.5%
ATTEMPT ELUDE POLICE VEHICLE	28	504	13	42.2%
BAIL JUMP W/ CLASS A (POST 7/89)	0	4	1	65.0%
BAIL JUMP W/ CLASS B or C (POST 7/89)	58	214	5	23.5%
BIGAMY	0	2	0	0.2%
BRIBE RCVD BY WITNESS	0	1	0	0.0%
BRIBING A WITNESS	0	1	0	100.0%
BURGLARY 1	5	126	4	37.5%
BURGLARY 2 - PRE 7/90	0	1	0	0.0%
BURGLARY 2 (NONDWELLING)-POST 7/90	184	761	14	22.6%
CHEATING 1	0	1	0	100.0%
CHILD MOLEST 1 (7/90 - 8/31/01)	8	7	1	66.4%
CHILD MOLEST 1 >17 (POST 8/31/01) (.712)	40	64	2	46.7%

OFFENSE	SENTENCE RELATIVE TO STANDARD RANGE			AVERAGE OF WHERE IN THE RANGE?
	Below	Within	Above	
CHILD MOLEST 2 (POST 7/90)	12	75	5	64.8%
CHILD MOLEST 3 (POST 7/90)	9	47	4	54.0%
COMMERCIAL FISHING W/O A LICENSE - 1ST	0	1	0	8.3%
COMMERCIAL SEX ABUSE/MINOR - PROMOTE	0	5	1	82.8%
COMMUNICATION WITH A MINOR new	1	29	3	34.3%
COMPUTER TRESPASS 1	0	3	0	66.7%
CRÉ DEL POS COUNTERFEIT CTRL SUBS NARC 1ST OFF	0	2	0	13.7%
CRÉ DEL POS COUNTERFEIT CTRL SUBS NON-NARC 1ST	0	1	0	0.0%
CRIMINAL IMPERSONATION 1	1	87	4	19.7%
CRIMINAL MISTREATMENT 1 (POST 06/07/06)	1	1	1	100.0%
CRIMINAL MISTREATMENT 2	0	1	0	7.5%
CRIMINAL MISTREATMENT 2 (POST 06/07/06)	1	5	0	63.3%
CTRL SUBS HOMICIDE-POST 7/89 -1ST	0	2	0	41.2%
CUSTODIAL ASSAULT - POST 7/89	3	41	1	40.4%
CUSTODIAL INTERFERENCE 1	0	7	0	35.6%
CYBERSTALKING	1	2	0	12.5%
DEALING IN DEPIC. OF MINOR (POST 6/30/01)	1	1	1	0.0%
DEFAUDING INNKEEPER > \$75	0	2	0	57.0%
DEFAUDING PUBLIC UTILITY 1	0	3	0	25.0%
DEL MAT IN LIEU OF CS-POST7/89 2+	2	2	0	14.5%
DEL MAT IN LIEU OF CS-POST7/89 -1ST	1	11	1	33.6%
DEL POS W/I METH - 1ST OFF (POST 6/30/98)	74	354	15	32.0%
DEL POS W/I METH - 2ND OFF (POST 6/30/98)	2	5	0	37.0%
DEL POS W/I METH - SCH ZONE OFF (POST 6/30/98)	7	18	0	31.6%
DELIVERY FIREARM TO INELIG PERSON	0	3	0	22.2%
DESECRATION OF A GRAVE SITE	0	1	0	3.3%
DIGITAL SIGNATURE FRAUD	0	1	0	9.6%
DISARM A LAW ENFORCEMENT OR CORR OFFICER	0	2	0	11.9%
DISTRIB / RETAIL TOBACCO PRODT LIC VIO (POST 07/24	0	1	0	0.0%
DOMESTIC VIOLENCE CT ORDER VIOL (POST 6/30/00)	263	438	11	30.6%
DRIVE- BY SHOOTING (POST 6/30/97)	1	43	2	42.0%
DRIVING UNDER INFLUENCE (FELONY) (POST 07/01/07)	10	90	0	40.3%
ELECTIONS VIOLATION	0	1	0	1.4%
ENDANGERMENT WITH A CONTROLLED SUBSTANCE	1	2	1	64.3%
ESCAPE 1	12	22	1	27.7%
ESCAPE 2	7	54	1	16.6%
ESCAPE FROM COMMUNITY CUSTODY-POST 6/92	3	72	2	22.4%
EXPLOSIVE DEVICES PROHIBITED	0	1	0	0.0%
EXPLOSIVE LICENSING VIOLATION	0	7	0	26.0%
EXTORTION 1	0	5	0	30.0%
EXTORTION 2	0	6	0	34.0%
FAIL TO REGISTER KIDNAPPER - POST 7/24/99	0	14	0	15.6%
FAIL TO REGISTER SEX OFF (POST 7/24/99)	0	265	3	11.8%

OFFENSE	SENTENCE RELATIVE TO STANDARD RANGE			AVERAGE OF WHERE IN THE RANGE?
	Below	Within	Above	
FAIL TO REGISTER SEX OFF 2+ (POST 06/07/06)	63	162	2	11.9%
FAIL TO REGISTER SEX OFF -CL A (PRE 7/27/97)	0	1	0	0.0%
FALSE VERIFICATION FOR WELFARE	0	6	0	25.8%
FORGED PRESCRIPTION VUCSA - 1ST	15	137	0	20.2%
FORGED PRESCRIPTION VUCSA 2+	1	1	0	24.8%
FORGED PRESCRIPTION VULDA	1	6	0	20.3%
FORGERY	54	570	5	37.7%
HARASSMENT	50	324	5	31.1%
HARMING A POLICE DOG	0	1	0	25.0%
HIT AND RUN - DEATH (POST 7/21/01)	2	10	0	76.2%
HIT AND RUN - INJURY (POST 6/7/00)	19	66	3	21.0%
IDENTITY THEFT (PRE 7/22/01)	0	1	0	1.4%
IDENTITY THEFT 1 (POST 7/21/01)	57	46	3	42.7%
IDENTITY THEFT 2 (POST 7/21/01)	169	416	6	32.1%
ILLEGAL TRANSFER OF MOTOR VEHICLE CERTIFICATE	0	8	0	45.6%
INCENDIARY DEVICES (POST 7/24/99)	0	3	1	33.3%
INCEST 1	3	18	0	59.7%
INCEST 2	0	9	1	77.8%
INCITING CRIMINAL PROFITEERING	1	1	0	52.9%
INDECENT EXPOSURE (POST 7/24/99)	4	22	1	34.7%
INDECENT EXPOSURE (PRE 7/25/99)	0	2	0	53.7%
INDECENT LIB /FORCE VICT W/DIMI CAP (POST 03/20/06)	0	1	0	4.5%
INDECENT LIB -DD VICTM (POST 7/90)	10	32	5	59.0%
INDECENT LIB W/FORCE (POST 8/31/01) (.712)	2	9	2	55.3%
INDECENT LIBERTIES BY HEALTHCARE PROVIDER	0	1	0	25.0%
INJURY-PUBLIC RECORD	0	1	0	0.6%
INSURANCE FRAUD	0	2	1	5.9%
INSURANCE FRAUD-FALSE CLAIMS	0	11	0	12.6%
INTERFERENCE WITH OFFICER'S DUTIES/HOLDING HOSTAGE	0	2	0	100.0%
INTIMIDATING A JUDGE	2	2	0	100.0%
INTIMIDATING A PUBLIC SERVANT	3	18	1	23.4%
INTIMIDATING A WITNESS	4	13	2	47.9%
INTIMIDATION WITH AN EXPLOSIVE	0	1	0	32.0%
INTRODUCING CONTRABAND 2	1	1	0	0.0%
INVOLVING MINOR IN DRUG DEAL- POST 7/89- 2+	0	1	0	50.0%
KIDNAP 1	0	16	1	52.3%
KIDNAP 1 W/SEX.MOT-VICT <15 (POST 03/20/06)	0	1	0	0.0%
KIDNAP 2	3	19	1	39.3%
LEADING ORGANIZED CRIME	0	1	1	0.0%
LOTTERY ACT VIOLATION	0	3	0	20.7%
LURING OF CHILD	0	11	1	27.0%
M/D/P W/ AMPHET - 1ST OFF (POST 6/10/98)	0	4	0	60.4%
M/D/P W/ HER COC - SCH Z (POST 6/30/02) (L7)	5	13	2	31.1%

OFFENSE	SENTENCE RELATIVE TO STANDARD RANGE			AVERAGE OF WHERE IN THE RANGE?
	Below	Within	Above	
M/D/P W/ HER COC - SCH Z (POST 6/30/02) (L8)	0	1	0	53.4%
M/D/P W/ HER COC (POST 6/30/02) (L7)	107	599	9	24.2%
M/D/P W/ HER COC (POST 6/30/02) (L8)	0	11	0	10.5%
M/D/P W/ HER COC (PRE 7/1/02)	2	3	0	19.4%
M/D/P W/ HER COC 2+ (POST 6/30/02) (L7)	3	24	0	20.4%
M/D/P W/ HER COC 2+ (POST 6/30/02) (L8)	1	5	0	20.0%
M/D/P W/ IMITATION CTRL SUBS-POST 7/89	0	1	0	100.0%
M/D/P W/ MARIJ - 1ST OFF	15	559	11	30.7%
M/D/P W/ MARIJ - 2ND OFFENSE	1	7	0	36.8%
M/D/P W/ MARIJ - CORR FAC	0	1	0	0.0%
M/D/P W/ MARIJ - SCH ZONE	0	5	1	50.0%
M/D/P W/ OTH,EXC MJ/METH/AMP/FLUN-1ST(POST 6/98)	0	2	0	50.0%
M/D/P W/ OTH,EXC MJ/METH/AMP/FLUN-SZ(POST 6/98)	0	1	0	0.4%
M/D/P W/ SC I/II NARC OR FLUNT-1ST OFF	21	107	0	29.4%
MAINTN PLACE FOR DRUGS (69.50)- 1ST (POST 7/24/99)	1	3	0	58.2%
MALICIOUS HARASSMENT	2	13	0	22.6%
MALICIOUS MISCHIEF 1	5	63	0	42.5%
MALICIOUS MISCHIEF 2	9	281	3	35.7%
MALICIOUS PLACEMENT OF EXPLOSIVES 3 (POST 7/26/97)	0	1	0	0.0%
MALICIOUS PROSECUTION	0	1	0	16.7%
MANSLAUGHTER 1 (POST 7/26/97)	5	20	1	62.2%
MANSLAUGHTER 1 (PRE 7/27/97)	0	1	0	100.0%
MANSLAUGHTER 2 (POST 7/26/97)	2	14	2	61.0%
MEDICAID FRAUD	0	2	0	13.2%
MEDICAL MARIJUANA FRAUDULENT RECORDS	0	1	0	4.1%
MFG METH - 1ST OFFENSE (POST 6/30/98)	12	22	2	47.5%
MFG METH - 2ND OFFENSE (POST 6/30/98)	0	1	0	39.9%
MFG METH - SCH ZONE OFF (POST 6/30/98)	1	4	0	53.8%
MONEY LAUNDERING	0	24	2	27.5%
MURDER 1 (POST 7/24/99)	0	41	1	68.9%
MURDER 1 - PRE 7/1/90	0	3	1	59.2%
MURDER 1 (7/1/90-7/24/99)	0	2	0	100.0%
MURDER 2 (POST 7/24/99)	2	52	1	48.5%
OBTAIN SIGNATURE BY DECEPTION	0	1	0	0.0%
OFFER FALSE DOCUMENT	0	2	0	4.2%
ORGANIZED RETAIL THEFT 1	1	3	0	8.3%
ORGANIZED RETAIL THEFT 2	3	49	0	33.0%
OVER 18 - DEL OTH TO MINOR	0	1	0	52.9%
OVER 18 - DEL S I/II NARC/FLUNT/METH MINOR	1	1	0	100.0%
OWNER OF DOG THAT ATTACKS	0	1	0	25.0%
PATRONIZING A JUV PROSTITUTE (POST 6/30/01)	0	1	0	100.0%
PERJURY 1	1	1	0	0.0%
PERJURY 2	6	6	0	6.3%

OFFENSE	SENTENCE RELATIVE TO STANDARD RANGE			AVERAGE OF WHERE IN THE RANGE?
	Below	Within	Above	
PERSISTENT PRISON MISBEHAVIOR	1	0	0	n.a.
POS CNTL SUBS - BY PRISONERS	0	16	0	20.7%
POS CNTL SUBS - OTHER EXC.PCP/FLUNIT	161	2,204	10	26.4%
POS CNTL SUBS - SCH I/II IN CORR FACIL	1	1	0	50.0%
POS CNTL SUBS SCH I/II OR FLUNIT	89	1,248	7	27.6%
POS DEPICTION OF MINORS - POST 06/07/06	6	28	1	26.1%
POS EPHEO/PSEUDO/AMMO W/1 MFG METH-1ST (POST 6/00)	1	1	1	0.0%
POS MACH GUN/SHOT BARL SHOT GUN (POST 7/24/99)	1	8	0	40.2%
POS PHENCYCLIDINE (PCP)	0	3	0	28.3%
POS STOLEN FIREARM	21	33	0	26.5%
POS STOLEN PROPERTY 1	13	70	0	35.9%
POS STOLEN PROPERTY 2	26	316	2	37.2%
POS STOLEN VEHICLE	77	314	2	34.8%
PRACTICE OF PROFESSION W/O LICENSE	0	1	0	1.0%
PROMOTING PROSTITUTION 1	0	7	4	28.6%
PROMOTING PROSTITUTION 2	0	15	0	15.4%
RAPE 1 (POST 8/31/01) (.712)	0	12	0	68.4%
RAPE 2 (7/27/97 - 8/31/01)	0	1	0	0.0%
RAPE 2 (POST 8/31/01) (.712)	2	31	0	50.0%
RAPE 3	4	42	2	54.2%
RAPE OF A CHILD 1 (7/27/97 - 8/31/01)	5	9	0	61.5%
RAPE OF A CHILD 1 (7/90 - 7/26/97)	0	1	0	100.0%
RAPE OF A CHILD 1 .712 >=18 /FEE (POST 07/22/07)	0	1	0	100.0%
RAPE OF A CHILD 1 <18 (POST 8/31/01)	0	6	1	13.6%
RAPE OF A CHILD 1 >17 (POST 8/31/01) (.712)	19	48	3	55.7%
RAPE OF A CHILD 2 (7/27/97 - 8/31/01)	1	3	0	66.7%
RAPE OF A CHILD 2 (PRE 7/90)	0	0	1	n.a.
RAPE OF A CHILD 2 <18 (POST 8/31/01)	0	3	0	61.5%
RAPE OF A CHILD 2 >17 (POST 8/31/01) (.712)	10	40	1	54.5%
RAPE OF A CHILD 2 PREDATORY (.712) (POST 03/20/06)	0	1	0	2.7%
RAPE OF A CHILD 3-POST 7/90	18	80	2	61.0%
RECKLESS BURNING 1	1	15	2	42.2%
RENDERING CRIMINAL ASSTANCE 1	14	18	1	49.2%
RESIDENTIAL BURGLARY-POST 7/90	339	588	13	26.8%
RETAIL THEFT W/EXTENU CIRCUMSTN 1	0	2	0	0.0%
RETAIL THEFT W/EXTENU CIRCUMSTN 2	1	16	1	38.7%
RETAIL THEFT W/EXTENU CIRCUMSTN 3	0	103	4	22.0%
RIOT	0	200	4	26.0%
ROBBERY 1	13	365	7	36.5%
ROBBERY 2	15	338	10	37.6%
SECURITY ACT VIOLATION-POST 7/89	0	0	1	n.a.
SELL OR DELIVER LEGEND DRUGS	0	2	0	17.9%
SELLING FOR PROFIT-POST 7/91 1ST	0	1	1	100.0%

OFFENSE	SENTENCE RELATIVE TO STANDARD RANGE			AVERAGE OF WHERE IN THE RANGE?
	Below	Within	Above	
SELLING FOR PROFIT-POST 7/91 2ND	0	1	0	100.0%
SEND/BRING SEXUAL DEPICTIONS OF MINOR-POST 6/30/01	1	0	0	n.a.
SEXUAL EXPLOITATION (POST 6/30/01)	3	7	1	57.1%
SEXUAL MISCONDUCT 1 (POST 7/90)	1	4	0	87.5%
SEXUALLY VIOLENT PREDATOR ESCAPE	0	1	0	100.0%
STALKING (POST 6/30/00)	5	21	2	51.4%
STATUTORY RAPE 3 (PRE 7/88)	0	1	0	0.0%
TAMPERING WITH A WITNESS	7	59	1	38.5%
TELECOMMUNICATIONS FRAUD	0	1	0	0.3%
TELEPHONE HARASSMENT (POST 7/24/99)	5	16	0	39.2%
THEFT 1	83	542	38	35.7%
THEFT 1 - WELFARE FRAUD	3	17	0	27.0%
THEFT 2	67	1,047	16	35.3%
THEFT 2 - WELFARE FRAUD	0	4	0	16.5%
THEFT OF A FIREARM (POST 7/22/95)	33	32	0	23.2%
THEFT OF MOTOR VEHICLE	26	150	1	35.3%
THEFT OF RENTAL OR LEASED PROPERTY (\$250-\$1500)	1	19	0	29.1%
THEFT OF RENTAL OR LEASED PROPERTY (<\$1,500)	1	7	0	38.1%
THEFT OF TELECOMMUNICATIONS SVC	0	2	0	16.5%
THEFT W/ INTENT RESELL 1	1	0	0	n.a.
THEFT W/ INTENT RESELL 2	1	4	1	31.8%
THREATS TO BOMB - POST 7/89	6	10	1	18.7%
TMVWOP 1 (POST 6/12/02)	1	3	0	66.7%
TMVWOP 2 (POST 6/12/02)	50	426	3	31.9%
TRAFFICKING IN STOLEN PROP 1	106	123	4	23.8%
TRAFFICKING IN STOLEN PROP 2	37	117	0	20.3%
UNLAWFUL DISCHARGE OF A LASER 1	0	1	0	3.8%
UNLAWFUL FACTORING CREDIT/PAY CARD TRANSACTION-1ST	2	2	0	50.0%
UNLAWFUL HUNTING BIG GAME - 1ST	0	3	0	66.7%
UNLAWFUL IMPRISONMENT	10	70	2	41.5%
UNLAWFUL ISSUE OF CHECKS/DRAFT	6	49	1	28.8%
UNLAWFUL POSS OF FICTITIOUS IDENTIFICATION	0	2	0	69.8%
UNLAWFUL POSS OF FIREARM 1	20	121	4	41.3%
UNLAWFUL POSS OF FIREARM 2	35	355	15	26.6%
UNLAWFUL POSS OF PAYMENT INSTRUMENTS	2	13	0	40.2%
UNLAWFUL PRODUCTION OF PAYMENT INSTRUMENTS	1	1	0	0.0%
UNLAWFUL TRAFFICKING FISH OR WILDLIFE - 1ST	0	1	0	0.0%
USE BUILDING FOR DRUGS (69.53) (POST 7/24/99)	1	1	1	46.0%
USE BUILDING FOR DRUGS (69.53) (PRE 7/25/99)	0	1	0	50.0%
VEHICLE PROWL 1	2	10	0	43.7%
VEHICULAR ASSAULT DISREGARD SAFETY (POST 7/21/01)	4	47	4	48.2%
VEHICULAR ASSAULT UND INFL/RECKLESS (POST 7/21/01)	3	101	4	33.8%
VEHICULAR HOMICIDE - DISREGARD SAFETY-VIOLENT	2	10	0	28.2%

OFFENSE	SENTENCE RELATIVE TO STANDARD RANGE			AVERAGE OF WHERE IN THE RANGE?
	Below	Within	Above	
VEHICULAR HOMICIDE - DRUNK (POST 6/5/96)	1	17	1	49.7%
VEHICULAR HOMICIDE - RECKLESS MANNER (POST 6/5/96)	0	6	0	66.7%
VIOLATION OF FOREIGN PROTECTION ORDER	0	48	2	41.4%
VIOLATION OF SUSPEN OF DEPT. PRIVILEGES 1ST DEG.	0	1	0	1.3%
VOTER REGISTRATION VIOLATION	0	1	0	8.3%
VOYEURISM	0	17	1	28.2%
VOYEURISM (POST 06/07/06)	1	9	0	45.1%
VUCSA - GENERIC	0	2	0	43.7%
WEAP POSS BY PRISONER/COUNTY FACILITY	0	3	0	10.4%
ALL OFFENSES	3,034	19,172	456	32.1%

1 The "WHERE IN THE RANGE?" (WIR) column in this table displays a statistic based on the sentences of those offenders sentenced within the standard range. The statistic presents the average sentence for these offenders as a number from 0 to 100, where 0 corresponds to a sentence at the bottom of the range and 100 a sentence at the top of the range. Thus an average at the midpoint of the range corresponds to a WIR score of 50 (i.e., 50% of the range).

2 All life/death sentences for Aggravated Murder are "within the range." Offenders may also be sentenced to life as "Persistent Offenders" or as part of an exceptional sentence. Life sentences for Persistent Offenders are considered to be within the standard range. Life sentences ordered as part of an exceptional sentence are above the standard range.

**Table 13. Average Sentence of "Most Serious Offenders" by County
Fiscal Year 2010**

This table excludes life and death sentences.

COUNTY	Number	Months
Adams	15	38.5
Asotin	8	120.4
Benton	65	62.4
Chelan	24	79.5
Clallam	23	36.5
Clark	246	55.8
Columbia	2	15.5
Cowlitz	49	87.7
Douglas	4	56.0
Ferry	1	407.0
Franklin	31	46.3
Grant	47	33.8
Grays Harbor	33	56.7
Island	24	46.8
Jefferson	2	722.0
King	661	64.9
Kitsap	79	42.2
Kittitas	9	34.8
Klickitat	5	26.8
Lewis	49	51.9
Lincoln	2	16.0
Mason	36	97.4
Okanogan	11	74.5
Pacific	9	158.0
Pend Oreille	1	20.0
Pierce	525	62.2
San Juan	1	112.0
Skagit	69	37.5
Skamania	4	182.5
Snohomish	198	59.8
Spokane	263	48.8
Stevens	17	63.8
Thurston	127	70.6
Wahkiakum	2	25.5
Walla Walla	22	33.2
Whatcom	102	51.0
Whitman	6	219.2
Yakima	124	65.9
TOTAL	2,896	60.7

NOTE: The definition of "Most Serious Offender" used in this table is a person convicted of a "most serious offense" as defined in RCW 9.94A.030.

ONLY LIFE OR DEATH* SENTENCES BY COUNTY

COUNTY	Number	Sentence
Clallam	1	Life
King	6	Life
King	1	Death
Lewis	2	Life
Okanogan	1	Life
Pierce	5	Life
Skagit	1	Life
Spokane	4	Life
Thurston	1	Life
Whatcom	1	Life
Yakima	3	Life
TOTAL	26	

*A Persistent Offender may be sentenced to death if the "third strike" offense is Aggravated Murder.

**Table 14. "Persistent Offenders" by County
Fiscal Year 2010**

COUNTY	TOTAL
Clallam	1
King	4
Lewis	2
Pierce	4
Spokane	3
Thurston	1
Whatcom	1
Yakima	2
TOTAL	18

EXCEPTIONAL SENTENCES

Under provisions of the Sentencing Reform Act (SRA), every adult felony offense has a presumed range of punishment determined by the seriousness of the offense, by the number and type of other current offenses and by the number and type of prior adult and juvenile offenses. The presumptive range for certain offenses may be increased for weapon usage, for dealing drugs in a school or other protected zone or for certain drug offenses committed in a correctional facility. The presumptive range is decreased by 25 percent if the current offense is an attempt, conspiracy or solicitation to commit a felony. Some alternative sentences are possible under the First-time Offender Waiver (FTOW) for first time offenders, excluding violent, sex or certain drug offenders. In addition, the Special Sex Offender Sentencing Alternative (SSOSA) allows suspended sentences for certain offenders, and the Drug Offender Sentencing Alternative (DOSA) allows for reduced confinement time for eligible offenders.

The SRA presumes that, in most cases, a sentencing judge will impose a sentence within the standard range for the offense. An exceptional sentence is a sentence outside the standard range. (Alternative sentences under FTOW, SSOSA or DOSA are not considered exceptional sentences.) An exceptional sentence is allowed if there are substantial and compelling reasons supported by the record. An aggravated sentence must be based on a factor listed in RCW 9.94A.535 and the defendant has right to a jury trial on the facts and circumstances underlying an aggravating factor. The judge is required to record these reasons in writing. Some exceptional sentences do not result in incarceration outside the standard range, but are used to provide sentence conditions not otherwise permitted (*e.g.*, lengthy community supervision). The prosecution or the defense may appeal exceptional sentences.

The following tables summarize the reasons recorded by sentencing judges when imposing exceptional sentences. Reasons are summarized separately for mitigated sentences, aggravated sentences and sentences within the standard range.

**Table 15. Aggravated Exceptional Sentence Reasons
Fiscal Year 2010**

REASON	NUMBER
Defendant agreed to prison, greater sentence, or treatment.	317
Criminal history score greater than 9 points.	21
Victim was particularly vulnerable.	19
The multiple offense policy results in a clearly lenient presumptive sent.	13
Major economic offense - used position of trust, confidence, responsibility.	12
Rapid recidivism.	12
Defendant was in a position of trust (not an economic or drug offense).	11
Major economic offense involving multiple victims or multiple incidents.	9
The sentence was the result of a plea	9
A domestic violence offense that was a part of an ongoing pattern of psychological, physical, or sex abuse of victim multiple incidents over a prolonged period of time.	8
Major economic offense substantially greater than typical for the offense.	8
Other aggravating factor.	6
The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2)	5
Major economic offense - high sophistication, planning, long time period.	5
A domestic violence offense that occurred in sight or sound of victim's children under age 18.	5
Multiple victims or multiple incidents per victim (not an economic offense).	4
The crime was gang related.	4
Deliberate cruelty to the victim.	4
Blakely	4
Part of an ongoing pattern of sexual abuse of the same victim under 18.	3
Seriousness of the offense/more egregious than the typical circumstances of the crime.	3
The offense was a violent offense and the offender knew the victim was pregnant.	2
Crime injured/harmed a person other than the victim.	2
A law enforcement officer was either the victim or injured as a result of the offense.	2
The defendant committed the crime with sexual motivation.	2
Additional incidents which, if charged, would result in higher range.	2
Factors in criminal record.	2
Drug offense - manufacture of controlled substances for use by others.	2
Drug offense - quantity substantially larger than personal use (dealing).	2
Defendant violated zone of privacy.	1
Defendant showed no remorse.	1
Offense resulted in the pregnancy of a child victim of rape	1
No resources in the community.	1
Defendant is not amenable to treatment.	1

**Table 15. Aggravated Exceptional Sentence Reasons
Fiscal Year 2010**

REASON	NUMBER
Defendant is a threat to the community.	1
Continuing criminal activity after arrest or while on probation or parole.	1
Total Aggravated Reasons:	505
Total Aggravated Sentences:	425
Total Reasons Per Case:	1.2

**Table 16. Mitigated Exceptional Sentence Reasons
Fiscal Year 2010**

REASON	NUMBER
All parties agreed to mitigated sentence.	259
Exceptional sentence is more appropriate/is in the interests of justice.	179
Part of a Mitigated Plea Agreement	63
Victim was an initiator, willing participant, aggressor, or provoker.	26
Capacity to appreciate the wrongfulness was significantly impaired.	20
The defendant's mental condition.	18
For defendant's rehabilitation or treatment.	9
Mitigated total confinement imposed w/extended community custody	8
Assisted law enforcement/agreed to help in prosecution of codefendant.	7
Offender's guilty plea allowed victim to avoid testimony at trial	6
Other mitigating factor.	6
No prior convictions or they are remote in time.	5
Crime committed under duress, coercion, threat, or compulsion.	5
With no apparent predisposition, was induced by others to participate.	5
To make frugal use of the state's resources.	4
Defendant is addicted to drugs or alcohol.	4
Before detection, the defendant compensated victim, or made effort.	3
Defendant's physical condition.	3
The multiple offense policy results in a clearly excessive presumptive sent.	3
Defendant is remorseful.	2
Defendant's age.	2
Offense principally accomplished by another, defendant caution or concern.	2
Defendant poses no threat to the community.	2
Defendant is making an effort to change criminal behavior or demonstrates a desire to do so.	1
The current offense was less serious than similar crimes of this nature.	1
Defendant to be deported or released into the custody of INS.	1
The defendant is addressing an alcohol problem.	1
The delay in filing the case was lengthy.	1
Defendant is addressing psychological problem.	1
Confession before apprehension.	1
Victim or family requests lower sentence.	1
Strong relationship between drug or alcohol addiction and criminal activity.	1
Exceptional sentence is one day less than range.	1
No injury to the victim.	1
Defendant's actions did not intend crime or harm.	1

**Table 16. Mitigated Exceptional Sentence Reasons
Fiscal Year 2010**

REASON	NUMBER
Defendant should be sentenced according to agreed range (clerical error).	1
Defendant has community or family support.	1
Total Mitigated Reasons:	655
Total Mitigated Sentences:	569
Total Reasons Per Case:	1.2

**Table 17. Within Standard Range Exceptional Sentence Reasons
Fiscal Year 2010**

REASON	NUMBER
Exceptional sentence is within the presumptive range.	19
Total Reasons:	19
Total Sentences:	19
Total Reasons Per Case:	1.0

SEX OFFENDER SENTENCING UNDER RCW 9.94A.507

During the 2001, the Legislature enacted 3ESSB 6151 – The Management of Sex Offenders in the Civil Commitment and Criminal Justice Systems. The new system is often called “determinate plus.” Essentially, any offender who is not a persistent offender, who is sentenced for any one of the offenses enumerated in RCW 9.94A.507(1)(a)(i) or (ii), or an attempt to commit any of those offenses, or is convicted of any sex offense, except failure to register, and has a prior conviction for a “two-strike” offense under RCW 9.94A.031(36)(b), is to receive an indeterminate sentence. The only exception is for offenders seventeen years old or younger at the time of the offense who are sentenced for Rape of a Child in the First Degree, Rape of a Child in the Second Degree or Child Molestation in the First Degree.

The minimum term of the sentence is to be set in the standard range according to the seriousness level of the offense and the offender score. The minimum term may also constitute an exceptional sentence as provided by RCW 9.94A.535. The maximum term is the statutory maximum sentence for the offense. Offenders sentenced to an indeterminate sentence are eligible for earned release pursuant to RCW 9.94A.728, have the opportunity for sex offender treatment while incarcerated and may be eligible for the Special Sex Offender Sentencing Alternative as provided in RCW 9.94A.670.

Offenders sentenced under the “determinate plus” scheme fall under the purview of the Indeterminate Sentence Review Board through the maximum term of the sentence. Those released from prison will be supervised by the Department of Corrections and will remain on community custody through the maximum term of the sentence.

**Table 18. "Determinate Plus" Sex Offense Sentences by County
Fiscal Year 2010**

COUNTY	FELONY CLASS OF QUALIFYING OFFENSE			TOTAL DETERMINATE PLUS SENTENCES
	CLASS A	CLASS B	CLASS C	
Adams	2	0	0	2
Asotin	1	0	0	1
Benton	10	1	0	11
Chelan	1	0	0	1
Clallam	0	0	0	0
Clark	34	5	1	40
Columbia	0	0	0	0
Cowlitz	2	1	1	4
Douglas	0	0	0	0
Ferry	0	0	0	0
Franklin	2	1	0	3
Garfield	0	0	0	0
Grant	4	0	0	4
Grays Harbor	5	1	0	6
Island	5	0	0	5
Jefferson	0	0	0	0
King	60	4	0	64
Kitsap	10	0	0	10
Kittitas	0	0	0	0
Klickitat	0	0	0	0
Lewis	14	0	0	14
Lincoln	0	0	0	0
Mason	11	0	0	11
Okanogan	3	1	0	4
Pacific	0	0	0	0
Pend Oreille	0	0	0	0
Pierce	50	2	0	52
San Juan	0	0	0	0
Skagit	6	0	1	7
Skamania	1	0	0	1
Snohomish	19	0	0	19
Spokane	12	0	1	13
Stevens	3	0	0	3
Thurston	18	1	0	19
Wahkiakum	0	0	0	0
Walla Walla	2	0	0	2
Whatcom	8	0	0	8
Whitman	1	0	0	1
Yakima	10	0	0	10
TOTAL	294	17	4	315

**Table 19. Sentences with Domestic Violence by County
Fiscal Year 2010**

COUNTY	SENTENCE WITH DOMESTIC VIOLENCE	TOTAL SENTENCES	PERCENTAGE
Adams	0	85	0.0%
Asotin	5	126	4.0%
Benton	8	796	1.0%
Chelan	12	275	4.4%
Clallam	4	276	1.4%
Clark	150	1,638	9.2%
Columbia	0	25	0.0%
Cowlitz	44	915	4.8%
Douglas	8	145	5.5%
Ferry	0	13	0.0%
Franklin	5	256	2.0%
Garfield	0	7	0.0%
Grant	16	396	4.0%
Grays Harbor	1	281	0.4%
Island	10	134	7.5%
Jefferson	2	76	2.6%
King	342	3,458	9.9%
Kitsap	92	912	10.1%
Kittitas	3	161	1.9%
Klickitat	6	62	9.7%
Lewis	13	446	2.9%
Lincoln	0	22	0.0%
Mason	15	274	5.5%
Okanogan	5	163	3.1%
Pacific	7	94	7.4%
Pend Oreille	0	23	0.0%
Pierce	170	3,921	4.3%
San Juan	3	28	10.7%
Skagit	38	529	7.2%
Skamania	2	29	6.9%
Snohomish	75	1,414	5.3%
Spokane	108	2,080	5.2%
Stevens	2	151	1.3%
Thurston	92	1,038	8.9%
Wahkiakum	0	10	0.0%
Walla Walla	9	217	4.1%
Whatcom	73	894	8.2%
Whitman	1	63	1.6%
Yakima	64	1,229	5.2%
TOTAL	1,385	22,662	

APPENDICES

The information contained herein is current as of Fiscal Year 2010, and does not reflect any changes enacted by the 2010 Legislature. Statutes presented and cited in the appendices may have been amended and become effective subsequent to Fiscal Year 2010 – the time period covered by this report.

APPENDIX A: ADULT FELONY SENTENCING GRID - RCW 9.94A.510 (1)

For Offenses Committed After July 24, 1999

SERIOUS LEVEL	OFFENSE SCORE									
	0	1	2	3	4	5	6	7	8	9 or More
XI	23y 4m 240-320	24y 4m 250-333	25y 4m 261-347	26y 4m 271-361	27y 4m 281-374	28y 4m 291-388	30y 4m 312-416	32y 10m 338-450	36y 370-493	40y 411-548
XV	14y 4m 123-220	15y 4m 134-234	16y 2m 144-244	17y 154-254	17y 11m 165-265	18y 9m 175-275	20y 5m 195-295	22y 2m 216-316	25y 7m 257-357	29y 298-397
XIV	12y 123-164	13y 134-178	14y 144-192	15y 154-205	16y 165-219	17y 175-233	19y 195-260	21y 216-288	25y 257-342	29y 298-397
XIII	9y 93-123	9y 11m 102-136	10y 9m 111-147	11y 8m 120-160	12y 6m 129-171	13y 5m 138-184	15y 9m 162-216	17y 3m 178-236	20y 3m 209-277	23y 3m 240-318
XII	7y 6m 78-102	8y 4m 86-114	9y 2m 95-125	9y 11m 102-136	10y 9m 111-147	11y 7m 120-158	14y 2m 146-194	15y 5m 159-211	17y 11m 185-245	20y 5m 210-280
XI	5y 51-68	5y 6m 57-75	6y 62-82	6y 6m 67-89	7y 72-96	7y 6m 77-102	9y 6m 98-130	10y 6m 108-144	12y 6m 129-171	14y 6m 149-198
X	3y 31-41	3y 6m 36-48	4y 41-54	4y 6m 46-61	5y 51-68	5y 6m 57-75	7y 6m 77-102	8y 6m 87-116	10y 6m 108-144	12y 6m 129-171
IX	5y 21-27	2y 6m 26-34	3y 31-41	3y 6m 36-48	4y 41-54	4y 6m 46-61	6y 6m 67-89	7y 6m 77-102	8y 6m 87-116	10y 6m 108-144
VIII	18m 15-20	2y 21-27	2y 6m 26-34	3y 31-41	3y 6m 36-48	4y 41-54	5y 6m 57-75	6y 6m 67-89	7y 6m 77-102	8y 6m 87-116
VII	13m 12+-14	18m 15-20	2y 21-27	2y 6m 26-34	3y 31-41	3y 6m 36-48	4y 6m 46-61	5y 6m 57-75	6y 6m 67-89	7y 6m 77-102
VI	9m 6-12	13m 12+-14	15m 13-17	18m 15-20	2y 2m 22-29	3y 6m 36-48	4y 41-54	5y 51-68	6y 62-82	7y 72-96
V	6m 3-9	9m 6-12	13m 12+-14	15m 13-17	18m 15-20	2y 2m 22-29	3y 2m 33-43	4y 2m 43-57	5y 2m 53-70	6y 2m 63-84
IV	2m 1-3	5m 3-8	8m 4-12	11m 9-12	14m 12+-16	20m 17-22	22y 2m 22-29	3y 2m 33-43	4y 2m 43-57	5y 51-68
III	45d 0-90 (days)	4m 2-6	6m 3-9	8m 4-12	13m 12+-14	16m 14-18	20m 17-22	2y 2m 22-29	3y 2m 33-43	4y 2m 43-57
II	30 d 0-60 (days)	45d 0-90 (days)	3m 2-5	4m 2-6	5m 3-8	8m 4-12	13m 12+-14	16m 14-18	20m 17-22	2y 2m 22-29
I										

APPENDIX B:
Offenses Included within Each Seriousness Level - RCW 9.94A.515

LEVEL	OFFENSES
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
	Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2))
	Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011)
	Assault of a Child 1 (RCW 9A.36.120)
	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
	Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)
	Rape 1 (RCW 9A.44.040)
	Rape of a Child 1 (RCW 9A.44.073)
	Trafficking 2 (RCW 9A.40.100(2))
XI	Manslaughter 1 (RCW 9A.32.060)
	Rape 2 (RCW 9A.44.050)
	Rape of a Child 2 (RCW 9A.44.076)
X	Child Molestation 1 (RCW 9A.44.083)
	Criminal Mistreatment 1 (RCW 9A.42.020)
	Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
	Kidnapping 1 (RCW 9A.40.020)
	Leading Organized Crime (RCW 9A.82.060(1)(a))
	Malicious explosion 3 (RCW 70.74.280(3))
	Sexually Violent Predator Escape (RCW 9A.76.115)

LEVEL	OFFENSES
IX	Abandonment of Dependent Person 1 (RCW 9A.42.060)
	Assault of a Child 2 (RCW 9A.36.130)
	Explosive devices prohibited (RCW 70.74.180)
	Hit and Run--Death (RCW 46.52.020(4)(a))
	Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
	Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
	Malicious placement of an explosive 2 (RCW 70.74.270(2))
	Robbery 1 (RCW 9A.56.200)
	Sexual Exploitation (RCW 9.68A.040)
	Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
VIII	Arson 1 (RCW 9A.48.020)
	Commercial Sexual Abuse of a Minor (RCW 9.68A.100)
	Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
	Manslaughter 2 (RCW 9A.32.070)
	Promoting Prostitution 1 (RCW 9A.88.070)
	Theft of Ammonia (RCW 69.55.010)
	Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
VII	Burglary 1 (RCW 9A.52.020)
	Child Molestation 2 (RCW 9A.44.086)
	Civil Disorder Training (RCW 9A.48.120)
	Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050(1))
	Drive-by Shooting (RCW 9A.36.045)
	Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
	Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
	Introducing Contraband 1 (RCW 9A.76.140)

LEVEL	OFFENSES
	Malicious placement of an explosive 3 (RCW 70.74.270(3)) Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675) Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060(1)) Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)) Use of a Machine Gun in Commission of a Felony (RCW 9.41.225) Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
VI	Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a)) Bribery (RCW 9A.68.010) Incest 1 (RCW 9A.64.020(1)) Intimidating a Judge (RCW 9A.72.160) Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130) Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b)) Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct (RCW 9.68A.070(1)) Rape of a Child 3 (RCW 9A.44.079) Theft of a Firearm (RCW 9A.56.300) Unlawful Storage of Ammonia (RCW 69.55.020)
V	Abandonment of dependent person 2 (RCW 9A.42.070) Advancing money or property for extortionate extension of credit (RCW 9A.82.030) Bail Jumping with class A Felony (RCW 9A.76.170(3)(b)) Child Molestation 3 (RCW 9A.44.089) Criminal Mistreatment 2 (RCW 9A.42.030) Custodial Sexual Misconduct 1 (RCW 9A.44.160) Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2)) Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145) Driving While Under the Influence (RCW 46.61.502(6)) Extortion 1 (RCW 9A.56.120)

LEVEL	OFFENSES
	Extortionate Extension of Credit (RCW 9A.82.020)
	Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
	Incest 2 (RCW 9A.64.020(2))
	Kidnapping 2 (RCW 9A.40.030)
	Perjury 1 (RCW 9A.72.020)
	Persistent prison misbehavior (RCW 9.94.070)
	Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))
	Possession of a Stolen Firearm (RCW 9A.56.310)
	Rape 3 (RCW 9A.44.060)
	Rendering Criminal Assistance 1 (RCW 9A.76.070)
	Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))
	Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
	Sexually Violating Human Remains (RCW 9A.44.105)
	Stalking (RCW 9A.46.110)
	Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
IV	Arson 2 (RCW 9A.48.030)
	Assault 2 (RCW 9A.36.021)
	Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
	Assault by Watercraft (RCW 79A.60.060)
	Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
	Cheating 1 (RCW 9.46.1961)
	Commercial Bribery (RCW 9A.68.060)
	Counterfeiting (RCW 9.16.035(4))
	Endangerment with a Controlled Substance (RCW 9A.42.100)
	Escape 1 (RCW 9A.76.110)
	Hit and Run -- Injury (RCW 46.52.020(4)(b))
	Hit and Run with Vessel -- Injury Accident (RCW 79A.60.200(3))
	Identity Theft 1 (RCW 9.35.020(2))

LEVEL	OFFENSES
	Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
	Influencing Outcome of Sporting Event (RCW 9A.82.070)
	Malicious Harassment (RCW 9A.36.080)
	Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68[A].070(2))
	Residential Burglary (RCW 9A.52.025)
	Robbery 2 (RCW 9A.56.210)
	Theft of Livestock 1 (RCW 9A.56.080)
	Threats to Bomb (RCW 9.61.160)
	Trafficking in Stolen Property 1 (RCW 9A.82.050)
	Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
	Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
	Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
	Unlawful transaction of insurance business (RCW 48.15.023(3))
	Unlicensed practice as an insurance professional (RCW 48.17.063(3))
	Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
	Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
	Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))
	Willful Failure to Return from Furlough (*RCW 72.66.060)
III	Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))
	Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
	Assault of a Child 3 (RCW 9A.36.140)
	Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
	Burglary 2 (RCW 9A.52.030)

LEVEL	OFFENSES
	Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
	Criminal Gang Intimidation (RCW 9A.46.120)
	Custodial Assault (RCW 9A.36.100)
	Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))
	Escape 2 (RCW 9A.76.120)
	Extortion 2 (RCW 9A.56.130)
	Harassment (RCW 9A.46.020)
	Intimidating a Public Servant (RCW 9A.76.180)
	Introducing Contraband 2 (RCW 9A.76.150)
	Malicious Injury to Railroad Property (RCW 81.60.070)
	Mortgage Fraud (RCW 19.144.080)
	Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)
	Organized Retail Theft 1 (RCW 9A.56.350(2))
	Perjury 2 (RCW 9A.72.030)
	Possession of Incendiary Device (RCW 9.40.120)
	Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)
	Promoting Prostitution 2 (RCW 9A.88.080)
	Retail Theft with Extenuating Circumstances 1 (RCW 9A.56.360(2))
	Securities Act violation (RCW 21.20.400)
	Tampering with a Witness (RCW 9A.72.120)
	Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))
	Theft of Livestock 2 (RCW 9A.56.083)
	Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
	Trafficking in Stolen Property 2 (RCW 9A.82.055)
	Unlawful Imprisonment (RCW 9A.40.040)
	Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
	Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)

LEVEL	OFFENSES
	Willful Failure to Return from Work Release (*RCW 72.65.070) Computer Trespass 1 (RCW 9A.52.110)
II	Counterfeiting (RCW 9.16.035(3)) Escape from Community Custody (RCW 72.09.310) Failure to Register as a Sex Offender (second or subsequent offense) (**RCW 9A.44.130(10)(a)) Health Care False Claims (RCW 48.80.030) Identity Theft 2 (RCW 9.35.020(3)) Improperly Obtaining Financial Information (RCW 9.35.010) Malicious Mischief 1 (RCW 9A.48.070) Organized Retail Theft 2 (RCW 9A.56.350(3)) Possession of Stolen Property 1 (RCW 9A.56.150) Possession of a Stolen Vehicle (RCW 9A.56.068) Retail Theft with Extenuating Circumstances 2 (RCW 9A.56.360(3)) Theft 1 (RCW 9A.56.030) Theft of a Motor Vehicle (RCW 9A.56.065) Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a)) Theft with the Intent to Resell 2 (RCW 9A.56.340(3)) Trafficking in Insurance Claims (RCW 48.30A.015) Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a)) Unlawful Practice of Law (RCW 2.48.180) Unlicensed Practice of a Profession or Business (RCW 18.130.190(7)) Voyeurism (RCW 9A.44.115) Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
I	False Verification for Welfare (RCW 74.08.055) Forgery (RCW 9A.60.020) Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)

LEVEL	OFFENSES
	Malicious Mischief 2 (RCW 9A.48.080)
	Mineral Trespass (RCW 78.44.330)
	Possession of Stolen Property 2 (RCW 9A.56.160)
	Reckless Burning 1 (RCW 9A.48.040)
	Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
	Theft 2 (RCW 9A.56.040)
	Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(5)(b))
	Transaction of insurance business beyond the scope of licensure (RCW 48.17.063)
	Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
	Unlawful Possession of Fictitious Identification (RCW 9A.56.320)
	Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)
	Unlawful Possession of Payment Instruments (RCW 9A.56.320)
	Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)
	Unlawful Production of Payment Instruments (RCW 9A.56.320)
	Unlawful Trafficking in Food Stamps (RCW 9.91.142)
	Unlawful Use of Food Stamps (RCW 9.91.144)
	Vehicle Prowl 1 (RCW 9A.52.095)

[2010 c 289 § 11; 2010 c 227 § 9. Prior: 2008 c 108 § 23; 2008 c 38 § 1; prior: 2007 c 368 § 14; 2007 c 199 § 10; prior: 2006 c 277 § 6; 2006 c 228 § 9; 2006 c 191 § 2; 2006 c 139 § 2; 2006 c 128 § 3; 2006 c 73 § 12; prior: (2006 c 125 § 5 repealed by 2006 c 126 § 7); 2005 c 458 § 2; 2005 c 183 § 9; prior: 2004 c 176 § 2; 2004 c 94 § 3; (2004 c 94 § 2 expired July 1, 2004); prior: 2003 c 335 § 5; (2003 c 335 § 4 expired July 1, 2004); 2003 c 283 § 33; (2003 c 283 § 32 expired July 1, 2004); 2003 c 267 § 3; (2003 c 267 § 2 expired July 1, 2004); 2003 c 250 § 14; (2003 c 250 § 13 expired July 1, 2004); 2003 c 119 § 8; (2003 c 119 § 7 expired July 1, 2004); 2003 c 53 § 56; 2003 c 52 § 4; (2003 c 52 § 3 expired July 1, 2004); prior: 2002 c 340 § 2; 2002 c 324 § 2; 2002 c 290 § 7; (2002 c 290 § 2 expired July 1, 2003); 2002 c 253 § 4; 2002 c 229 § 2; 2002 c 134 § 2; 2002 c 133 § 4; prior: 2001 2nd sp.s. c 12 § 361; 2001 c 300 § 4; 2001 c 217 § 12; 2001 c 17 § 1; prior: 2001 c 310 § 4; 2001 c 287 § 3; 2001 c 224 § 3; 2001 c 222 § 24; 2001 c 207 § 3; 2000 c 225 § 5; 2000 c 119 § 17; 2000 c 66 § 2; prior: 1999 c 352 § 3; 1999 c 322 § 5; 1999 c 45 § 4; prior: 1998 c 290 § 4; 1998 c 219 § 4; 1998 c 82 § 1; 1998 c 78 § 1; prior: 1997 c 365 § 4; 1997 c 346 § 3; 1997 c 340 § 1; 1997 c 338 § 51; 1997 c 266 § 15; 1997 c 120 § 5; prior: 1996 c 302 § 6; 1996 c 205 § 3; 1996 c 36 § 2; prior: 1995 c 385 § 2; 1995 c 285 § 28; 1995 c 129 § 3 (Initiative Measure No. 159); prior: (1994 sp.s. c 7 § 510 repealed by 1995 c 129 § 19 (Initiative Measure No. 159)); 1994 c 275 § 20; 1994 c 53 § 2; prior: 1992 c 145 § 4; 1992 c 75 § 3; 1991 c 32 § 3; 1990 c 3 § 702; prior: 1989 2nd ex.s. c 1 § 3; 1989 c 412 § 3; 1989 c 405 § 1; 1989 c 271 § 102; 1989 c 99 § 1; prior: 1988 c 218 § 2; 1988 c 145 § 12; 1988 c 62 § 2; prior: 1987 c 224 § 1; 1987 c 187 § 4; 1986 c 257 § 23; 1984 c 209 § 17; 1983 c 115 § 3. Formerly RCW 9.94A.320.]

APPENDIX C:
Drug Offense Sentencing Grid - RCW 9.94A.517

Serious Level	Offender Score 0 to 2	Offender Score 3 to 5	Offender Score 6 to 9+
Level III	51 to 68 months	68+ to 100 months	100+ to 120 months
Level II	12+ to 20 months	20+ to 60 months	60+ to 120 months
Level I	0 to 6 months	6+ to 18 months	12+ to 24 months

[2002 c 290 § 8.]

APPENDIX D:
Drug Offense Included within Each Seriousness Level - RCW 9.94A.518

LEVEL	DRUG OFFENSES
III	Any felony offense under chapter 69.50 RCW with a deadly weapon special verdict under RCW 9.94A.602
	Controlled Substance Homicide (RCW 69.50.415)
	Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
	Involving a minor in drug dealing (RCW 69.50.4015)
	Manufacture of methamphetamine (RCW 69.50.401(2)(b))
	Over 18 and deliver heroin, methamphetamine, a narcotic from Schedule I or II, or flunitrazepam from Schedule IV to someone under 18 (RCW 69.50.406)
	Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic, except flunitrazepam or methamphetamine, from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)
	Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to manufacture methamphetamine. (RCW 69.50.440)
	Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)
II	Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.4011)

LEVEL	DRUG OFFENSES
	Deliver or possess with intent to deliver methamphetamine (RCW 69.50.401(2)(b))
	Delivery of a material in lieu of a controlled substance (RCW 69.50.4012)
	Maintaining a Dwelling or Place for Controlled Substances (RCW 69.50.402(1)(f))
	Manufacture, deliver, or possess with intent to deliver amphetamine (RCW 69.50.401(2)(b))
	Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II or flunitrazepam from Schedule IV (RCW 69.50.401(2)(a))
	Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana, amphetamine, methamphetamines, or flunitrazepam) (RCW 69.50.401(2) (c) through (e))
	Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))
I	Forged Prescription (RCW 69.41.020)
	Forged Prescription for a Controlled Substance (RCW 69.50.403)
	Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(2)(c))
	Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Nonnarcotic from Schedule I-V (RCW 69.50.4013)
	Possession of Controlled Substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.4013)
	Unlawful Use of Building for Drug Purposes (RCW 69.53.010)

[2003 c 53 § 57; 2002 c 290 § 9.]

APPENDIX 6

1
2
3
4 IN THE COURT OF APPEALS OF
5 THE STATE OF WASHINGTON
6 DIVISION II

7 IN RE PERSONAL RESTRAINT)

8 OF)

9 GUADALUPE SOLIS DIAZ)
10 _____)

NO. 37120-1-II

DECLARATION OF
BETH COLGAN

11 I, Beth Colgan, declare the following:

- 12 1. I am the Managing Attorney of the Institutions Project at Columbia Legal Services.
- 13 2. In July 2009 I submitted a Public Records Act (PRA) request to the Department of
14 Corrections (DOC) requesting data sufficient to show all individuals in the custody of
15 the DOC who were incarcerated for crimes committed before eighteen years of age.
16 Over the next several months I worked with DOC staff to identify the appropriate data
17 to satisfy my request. In January 2010 the DOC provided me with the data for all
18 persons in DOC custody as of that date.
- 19 3. In November 2010 I submitted a follow up PRA request to the DOC requesting an
20 update of the same data for individuals who came into DOC custody after January 1,
21 2010.
- 22 4. In January 2011 I submitted a second follow up PRA request to the DOC requesting an
23 update of the same data for individuals who came into DOC custody during the
24 remainder of 2010.
25

1 5. As a result of these three data requests, I have collected data regarding the population
2 of individuals who were transferred to the custody of the DOC for crimes committed as
3 youth through the close of 2010.

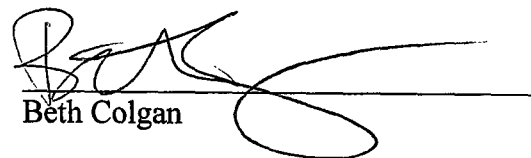
4 6. Based on the data provided by the DOC I was able to identify the sentence length for
5 all individuals in the data set who were incarcerated for crimes committed under the
6 age of eighteen and who were in DOC custody at the close of 2010. I identified that out
7 of the over 17,000 people in DOC prisons:

8 a. There are 29 people serving life in prison without the possibility of parole for
9 crimes committed as youth. All of these people were convicted of first degree
10 aggravated murder.

11 b. There are two people serving sentences of over 90 years for non-homicide
12 crimes committed as youth, one of which is Guadalupe Solis Diaz.

13
14 I DECLARE under the penalty of perjury of the laws of the State of Washington that the
15 foregoing is true and correct.

16
17 DATED this 29th day of April, 2011, at Seattle, Washington.

18
19
20 
Beth Colgan

APPENDIX 7

Received & Filed
LEWIS COUNTY, WASH
Superior Court

SEP 10 2008

ORIGINAL

By Kathy A. Brack, Clerk
Deputy

Superior Court of Washington
County of Lewis

State of Washington, Plaintiff,

vs.

Juan Alberto Velasquez,
Defendant.

SID:
DOB: 10/16/85

No. 07-1-00803-3

Felony Judgment and Sentence --
Prison
(FJS)

☒ Clerk's Action Required, para 2.1, 4.1, 4.3, 5.2,
5.3, 5.5 and 5.7
☐ Defendant Used Motor Vehicle

I. Hearing

1.1 The court conducted a sentencing hearing this date; the defendant, the defendant's lawyer, and the (deputy) prosecuting attorney were present.

II. Findings

2.1 **Current Offenses:** The defendant is guilty of the following offenses, based upon
☒ guilty plea (date) 9/10/08 ☐ jury-verdict (date) _____
☐ bench trial (date) _____:

Count	Crime	RCW (w/subsection)	Class	Date of Crime
1	Assault in the First Degree	9A.36.011(1)(a)	A	8/11/2007
2	Assault in the Third Degree	9A.36.031 (1)(d)	C	8/11/2007
3	Assault in the Third Degree	9A.36.031 (1)(d)	C	8/11/2007
4	Assault in the Third Degree	9A.36.031 (1)(d)	C	8/11/2007

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C)

(If the crime is a drug offense, include the type of drug in the second column.)

☐ Additional current offenses are attached in Appendix 2.1a.

The jury returned a special verdict or the court made a special finding with regard to the following:

☐ The defendant used a **firearm** in the commission of the offense in Count _____. RCW 9.94A.602, 9.94A.533.

08-9-1486-3

Felony Judgment and Sentence (FJS) (Prison)(Nonsex Offender)
(RCW 9.94A.500, .505)(WPF CR 84.0400 (6/2008))

Page 1 of 10

- ☐ The defendant used a **deadly weapon other than a firearm** in committing the offense in Count _____, RCW 9.94A.602, 9.94A.533.
- ☐ Count _____, **Violation of the Uniform Controlled Substances Act (VUCSA)**, RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- ☐ The defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the premises of manufacture** in Count _____, RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- ☐ Count _____ is a **criminal street gang**-related felony offense in which the defendant compensated, threatened, or solicited a **minor** in order to involve that minor in the commission of the offense. Laws of 2008, ch. 276, § 302.
- ☐ Count _____ is the crime of **unlawful possession of a firearm**. The defendant was a **criminal street gang** member or associate when the defendant committed the crime. RCW 9.94A.545.
- ☐ The defendant committed ☐ **vehicular homicide** ☐ **vehicular assault** proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.
- ☐ Count _____ involves **attempting to elude** a police vehicle and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. Laws of 2008, ch. 219 § 2.
- ☒ Counts 1 - 4 are felonies in the commission of which the defendant used a **motor vehicle**. RCW 46.20.285.
- ☐ The defendant has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.
- ☐ The crime(s) charged in Count _____ involve(s) **domestic violence**. RCW 10.99.020.
- ☐ Counts _____ encompass the same criminal conduct and count as one crime in determining the offender score (RCW 9.94A.589).
- ☐ **Other current convictions listed under different cause numbers used in calculating the offender score are** (list offense and cause number):

	Crime	Cause Number	Court (county & state)
1.	None		

- ☐ Additional current convictions listed under different cause numbers used in calculating the offender score are attached in Appendix 2.1b.

2.2 Criminal History (RCW 9.94A.525):

	Crime	Date of Crime	Date of Sentence	Sentencing Court (County & State)	A or J Adult, Juv	Type of Crime
1	Bail Jumping	2/3/06		Lewis, WA	A	NV
2	VUCSA	9/27/05		Lewis, WA	A	NV

- ☐ Additional criminal history is attached in Appendix 2.2.
- ☐ The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525.

☐ The prior convictions listed as number(s) _____, above, or in appendix 2.2, are one offense for purposes of determining the offender score (RCW 9.94A.525)

☐ The prior convictions listed as number(s) _____, above, or in appendix 2.2, are not counted as points but as enhancements pursuant to RCW 46.61.520.

2.3 Sentencing Data:

Count No.	Offender Score	Seriousness Level	Standard Range (not including enhancements)	Plus Enhancements*	Total Standard Range (including enhancements)	Maximum Term
1	5	XII	138-184 mos.		138 – 184 mos.	Life
2	5	III	17 - 22 mos.		17 -22 mos.	5 Years
3	5	III	17 - 22 mos.		17 -22 mos.	5 Years
4	5	III	17 - 22 mos.		17 -22 mos.	5 Years

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (CSG) criminal street gang involving minor, (AE) endangerment while attempting to elude.

☐ Additional current offense sentencing data is attached in Appendix 2.3.

For violent offenses, most serious offenses, or armed offenders, recommended **sentencing agreements or plea agreements** are ☒ attached ☐ as follows:

2.4 ☐ Exceptional Sentence. The court finds substantial and compelling reasons that justify an exceptional sentence:

☐ within ☐ below the standard range for Count(s) _____.

☐ above the standard range for Count(s) _____.

☐ The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

☐ Aggravating factors were ☐ stipulated by the defendant, ☐ found by the court after the defendant waived jury trial, ☐ found by jury, by special interrogatory.

Findings of fact and conclusions of law are attached in Appendix 2.4. ☐ Jury's special interrogatory is attached. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence.

2.5 Ability to Pay Legal Financial Obligations. The court has considered the total amount owing, the defendant's past, present, and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds:

☐ That the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

☐ The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

☐ The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

III. Judgment

3.1 The defendant is **guilty** of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2 ☐ The court **dismisses** Counts _____ in the charging document.

IV. Sentence and Order

It is ordered:

4.1 Confinement. The court sentences the defendant to total confinement as follows:

- (a) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

15 months on Count ONE 22 months on Count FOUR
22 months on Count TWO _____ months on Count _____
22 months on Count THREE _____ months on Count _____

☐ The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.

☐ The confinement time on Count _____ includes _____ months as enhancement for ☐ firearm ☐ deadly weapon ☐ VUCSA in a protected zone ☐ manufacture of methamphetamine with juvenile present.

Actual number of months of total confinement ordered is: 51 months

All counts shall be served concurrently, except for the portion of those counts for which there is an enhancement as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____.

The sentence herein shall run consecutively with the sentence in cause number(s) _____.

_____ but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here: _____.

- (b) **Credit for Time Served.** The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The jail shall compute time served unless the credit for time served prior to sentencing is specifically set forth here by the court. 119 days.

- (c) ☐ **Work Ethic Program.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic program. The court recommends that the defendant serve the sentence at a work ethic program. Upon completion of work ethic program, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions in Section 4.2. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of confinement.

4.2 Community Placement or Community Custody. (To determine which offenses are eligible for or required for community placement or community custody see RCW 9.94A.700, .705, and .715)

(A) The defendant shall be on community placement or community custody for the longer of:

(1) the period of early release. RCW 9.94A.728(1)(2); or

(2) the period imposed by the court, as follows:
 Count One for a range from 24 to 48 months;
 Count Two for a range from 9 to 18 months;
 Count Three for a range from 9 to 18 months;
 Count Four for a range of 9 to 18 months;
 Count _____ for _____ months.

(B) DOC shall supervise the defendant if DOC classifies the defendant in the A or B risk categories; or, DOC classifies the defendant in the C or D risk categories and at least one of the following apply:

a) The defendant committed a current or prior:		
i) Sex offense	ii) Violent offense	iii) Crime against a person (RCW 9.94A.411)
iv) Domestic violence offense (RCW 10.99.020)		v) Residential burglary offense
vi) Offense for manufacture, delivery or possession with intent to deliver methamphetamine including its salts, isomers, and salts of isomers		
vii) Offense for delivery of a controlled substance to a minor; or attempt, solicitation or conspiracy (vi, vii)		
b) The conditions of community placement or community custody include chemical dependency treatment		
c) The defendant is subject to supervision under the interstate compact agreement, RCW 9.94A.745		

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while in community custody; (6) not own, use, or possess firearms or ammunition; (7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; and (9) abide by any additional conditions imposed by DOC under RCW 9.94A.720. The defendant's residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody.

The court orders that during the period of supervision the defendant shall:

☐ consume no alcohol.

☐ have no contact with: _____

☐ remain ☐ within ☐ outside of a specified geographical boundary, to wit: _____

☐ participate in the following crime-related treatment or counseling services: _____

☐ undergo an evaluation for treatment for ☐ domestic violence ☐ substance abuse
☐ mental health ☐ anger management, and fully comply with all recommended treatment. _____

☐ comply with the following crime-related prohibitions: _____

☐ Other conditions: _____

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

JASS CODE

<u>PCV</u>	\$ <u>500</u>	Victim assessment	RCW 7.68.035
	\$ _____	Domestic Violence assessment	RCW 10.99.080

CRC \$

Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190

Criminal filing fee	\$ 200_____	FRC
Witness costs	\$ _____	WFR
Sheriff service fees	\$ _____	SFR/SFS/SFW/WRF
Jury demand fee	\$ _____	JFR
Extradition costs	\$ _____	EXT
Other	\$ _____	

PUB \$ TBD Fees for court appointed attorney RCW 9.94A.760

WFR \$_____ Court appointed defense expert and other defense costs RCW
9.94A.760

FCM/MTH \$

Fine RCW 9A.20.021; ☐ VUCSA chapter 69.50 RCW, ☐ VUCSA additional fine deferred due to indigency RCW 69.50.430

CDF/LDI/FCD \$_____

Drug enforcement fund of _____ RCW 9.94A.760

NTF/SAD/SDI

\$_____ DUI fines, fees and assessments

CLF \$ _____

Crime lab fee [] suspended due to indigency RCW 43.43.690

\$ 100	DNA collection fee	RCW 43.43.7541
--------	--------------------	----------------

RTN/RJN \$ _____ Emergency response costs (Vehicular Assault, Vehicular Homicide only,
\$1000 maximum) RCW 38.52.430

Other fines or costs for: _____

\$ TBD
Restitution to: Hub Tavern

RTN/RJN

\$
Restitution to:

\$
Restitution to: _____

(Name and Address—address may be withheld and provided confidentially to Clerk of the Court's office.)

\$ _____ **Total**

RCW 9.94A.760

[X] The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

[X] shall be set by the prosecutor.

[] is scheduled for _____ (date).

[] The defendant waives any right to be present at any restitution hearing (sign initials): _____.

[] **Restitution** Schedule attached.

[] Restitution ordered above shall be paid jointly and severally with:

Name of other defendant **Cause Number** **(Victim's name)** **(Amount-\$)**

RJN

[] The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

[] All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$_____ per month commencing _____. RCW 9.94A.760.

The defendant shall report to the clerk of the court or as directed by the clerk of the court to provide financial and other information as requested. RCW 9.94A.760(7)(b).

[] The court orders the defendant to pay costs of incarceration at the rate of \$_____ per day, (actual costs not to exceed \$100 per day). (JLR) RCW 9.94A.760.

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

4.4 DNA Testing. The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

[] **HIV Testing.** The defendant shall submit to HIV testing. RCW 70.24.340.

4.5 No Contact: The defendant shall not have contact with JESSE DOW (dob 1/24/80), SHEENA FISCO (dob 5/5/82), CASSANDRA NORSEKOG (dob 11/4/82), SEAN THOMAS (7/3/82) or DOUG HOHSEISE (2/9/68) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for life.

[] Domestic Violence No-Contact Order or Antiharassment No-Contact Order is filed with this Judgment and Sentence.

4.6 Other:

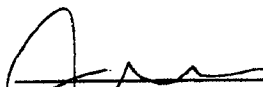
- 4.7 Off-Limits Order.** (Known drug trafficker). RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: _____

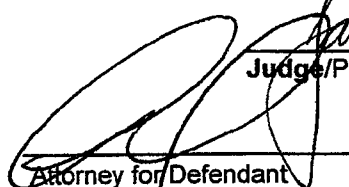
V. Notices and Signatures

- 5.1 Collateral Attack on Judgment.** If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, you must do so within one year of the final judgment in this matter, except as provided for in RCW 10.73.100.
RCW 10.73.090.
- 5.2 Length of Supervision.** If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).
- 5.3 Notice of Income-Withholding Action.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections (DOC) or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.
- 5.4 Community Custody Violation.**
(a) If you are subject to a first or second violation hearing and DOC finds that you committed the violation, you may receive as a sanction up to 60 days of confinement per violation. RCW 9.94A.634.
(b) If you have not completed your maximum term of total confinement and you are subject to a third violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.737(2).
- 5.5 Firearms.** You may not own, use or possess any firearm unless your right to do so is restored by a superior court in Washington State, and by a federal court if required. You must immediately surrender any concealed pistol license. (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.
- 5.6 Reserved**
- 5.7 Motor Vehicle:** If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. RCW 46.20.285.
- 5.8 Other:** _____

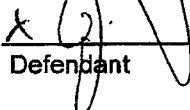
Done in Open Court and in the presence of the defendant this

Date: 9/10/08


Deputy Prosecuting Attorney
WSBA No. 31031
Print Name: Jim Mitchell


Attorney for Defendant
WSBA No. 24637
Print Name: Don Blair

Judge/Print Name: 

X 
Defendant
Print Name: Juan Velasquez

Voting Rights Statement: I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: a) a certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) a court order issued by the sentencing court restoring the right, RCW 9.92.066; c) a final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) a certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 29A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140. Termination of monitoring by DOC does not restore my right to vote.

Defendant's signature: 

I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the _____

_____ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.

Interpreter signature/Print
name: _____

VI. Identification of the Defendant

SID No.

Date of Birth

(If no SID complete a separate Applicant card
(form FD-258) for State Patrol)

FBI No.

Local ID No.

PCN No.

Other

Alias name, DOB:

Race:

Ethnicity:

Sex:

☐ Asian/Pacific Islander

☐ Black/African-American

☐ Caucasian

☐ Hispanic

☐ Male

☐ Native American

☐

☐ Non-Hispanic

☐ Female

Other:

Fingerprints: I attest that I saw the defendant who appeared in court affix his or her fingerprints and signature on this document.

Clerk of the Court, Deputy Clerk,
Dated: 9/10/08

The defendant's signature:

~~Left four fingers taken simultaneously~~

Left
Thumb

Right
Thumb

Right four fingers taken
simultaneously



APPENDIX 8

June 01 2009 12:00 PM

KEVIN STOCK
COUNTY CLERK

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 09-1-02724-4

vs.

KEVIN FRANKLIN,

DECLARATION FOR DETERMINATION OF
PROBABLE CAUSE

Defendant.

EDMUND M. MURPHY, declares under penalty of perjury:

That I am a deputy prosecuting attorney for Pierce County and I am familiar with the police report and/or investigation conducted by the TACOMA POLICE DEPARTMENT, incident number 091510139 and have been briefed by Tacoma Police Detectives Vold and Nist;

That the police report and/or investigation provided me the following information;

That in Pierce County, Washington, on or about the 31st day of May, 2009, the defendants, JEROME RAY KENNEDY, CONRAD IVORY EVANS, KEVIN FRANKLIN and DESMOND RAY JOHNSON, did commit the crime of Drive-By Shooting, and defendants KENNEDY, FRANKLIN and JOHNSON did commit the crime of Unlawful Possession of a Firearm in the First Degree.

At approximately 2:00 a.m. Benjamin Grossman was stopped in the 5400 block of South Cedar Street, facing southbound at the curb in the northbound lane. He observed a sub-compact vehicle turn northbound onto South Cedar Street from South 56th Street at a very high rate of speed. The sub-compact was being followed by a white Ford Explorer. As the Explorer made the turn, Grossman observed occupants of the Explorer firing guns at the other vehicle. Some of the rounds struck Grossman's vehicle, and he ducked down in his seat for cover. At South 54th Street, the sub-compact turned eastbound and the Explorer turned westbound. A physical check of Grossman's vehicle revealed a bullet strike to the right passenger door that penetrated the door, with the bullet ending up on the passenger seat. A second strike was located in the rear quarter panel at the top edge of the truck bed and a third strike was to the right rear tire. A friend of Grossman was also parked on the same street and observed that the two passenger door windows were down on the Explorer and that it appeared to him that muzzle flashes were coming out of both windows. A police officer in the area heard the shots and responded immediately. He got a suspect description of the vehicles involved. A total of eight .40 caliber shell casings were located along the east side of South Cedar Street, and it was also determined that a nearby motor home was also struck by a bullet.

Within approximately 4-5 minutes, Tacoma Police offices observed a white Ford Explorer traveling at a high rate of speed turning eastbound onto South 74th Street from Tacoma Mall Boulevard. The vehicle pulled into the Chevron station located at South 72nd and Hosmer Streets and officers observed four males exit the vehicle. A review of the surveillance tape from the Chevron station showed that defendant EVANS got out of the driver's door, defendant KENNEDY got out of the front passenger side door, defendant FRANKLIN got out of the rear driver's side door, and defendant JOHNSON got out of the rear passenger side door. Defendants KENNEDY and FRANKLIN went to a nearby Olds Cutlass and got in, with defendant KENNEDY getting into the front passenger seat and defendant FRANKLIN getting into the rear passenger side. A silver and black Taurus .40 caliber semi-automatic handgun was later recovered by the police from under the front passenger seat of the Cutlass.

DECLARATION FOR DETERMINATION
OF PROBABLE CAUSE -1

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Main Office (253) 798-7400

1 Officers observed defendants EVANS and JOHNSON enter the store located at the Chevron
2 station. Before entering the store, defendant JOHNSON was seen putting an item into a garbage can
3 outside the store. A later search of that garbage can revealed one loose .38 caliber shell casing in the can
4 and four additional .38 caliber shell casings inside a paper bag in the can. Surveillance video from inside
5 the store showed defendant JOHNSON bending over at a location where a revolver was subsequently
6 located by the police. Defendant JOHNSON was then observed placing something in a shelf at the exact
7 area where a holster and a bag containing bullets were later located by police. A glove was also
8 recovered in the store in a display area. A matching glove was found in the Explorer. Defendants
9 EVANS and JOHNSON exited the store and were taken into custody. Defendants KENNEDY and
10 FRANKLIN were taken into custody at the Olds Cutlass.

11 Grossman's friend was brought to the scene of the arrests and positively identified the white
12 Explorer as being the vehicle from which he observed the shots being fired.

13 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF
14 WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

15 DATED: June 1, 2009

16 PLACE: TACOMA, WA

17 /s/ EDMUND M. MURPHY

18 EDMUND M. MURPHY, WSB# 14754

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DECLARATION FOR DETERMINATION
OF PROBABLE CAUSE -2

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Tacoma, WA 98402-2171
Main Office (253) 798-7400

June 01 2009 12:00 PM

KEVIN STOCK
COUNTY CLERK

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 09-1-02724-4

vs.

KEVIN FRANKLIN,

INFORMATION

Defendant.

DOB: 3/7/1988

SEX : MALE

RACE: BLACK

PCN#: 539808770

SID#: UNKNOWN

DOL#: UNKNOWN

CO-DEF: JEROME RAY KENNEDY 09-1-02722-8

CO-DEF: CONRAD IVORY EVANS 09-1-02723-6

CO-DEF: DESMOND RAY JOHNSON 09-1-02725-2

COUNT I

I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse KEVIN FRANKLIN of the crime of DRIVE-BY SHOOTING, committed as follows:

That KEVIN FRANKLIN, acting as an accomplice, in the State of Washington, on or about the 31st day of May, 2009, did unlawfully, feloniously, and recklessly discharge a firearm, thereby creating a substantial risk of death or serious physical injury to Benjamin Grossman, a human being, and the firearm was discharged from a motor vehicle or from the immediate area of a motor vehicle that was used to transport the shooter or the firearm to the scene of the discharge, contrary to RCW 9A.36.045(1), and against the peace and dignity of the State of Washington.

COUNT II

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse KEVIN FRANKLIN of the crime of UNLAWFUL POSSESSION OF A FIREARM IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of INFORMATION- 1

1 a single scheme or plan, and/or so closely connected in respect to time, place and occasion that it would
2 be difficult to separate proof of one charge from proof of the others, committed as follows:

3 That KEVIN FRANKLIN, acting as an accomplice, in the State of Washington, on or about the
4 31st day of May, 2009, did unlawfully, feloniously, and knowingly own, have in his possession, or under
5 his control a firearm, he having been previously convicted in the State of Washington or elsewhere of a
6 serious offense, as defined in RCW 9.41.010(12), contrary to RCW 9.41.040(1)(a), and against the peace
7 and dignity of the State of Washington.

8 DATED this 1st day of June, 2009.

9 TACOMA POLICE DEPARTMENT
10 WA02703

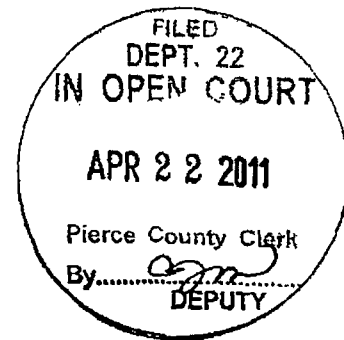
GERALD A. HORNE
Pierce County Prosecuting Attorney

emm

By: /s/ EDMUND M. MURPHY
EDMUND M. MURPHY
Deputy Prosecuting Attorney
WSB#: 14754



09-1-02724-4 36273466 JDSWCD 04-25-11



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 09-1-02724-4

APR 22 2011

vs.

KEVIN WAYNE FRANKLIN,

Defendant.

WARRANT OF COMMITMENT

- 1) ☐ County Jail
 2) ☒ Dept. of Corrections
 3) ☐ Other Custody

THE STATE OF WASHINGTON TO THE DIRECTOR OF ADULT DETENTION OF PIERCE COUNTY:

WHEREAS, Judgment has been pronounced against the defendant in the Superior Court of the State of Washington for the County of Pierce, that the defendant be punished as specified in the Judgment and Sentence/Order Modifying/Revoking Probation/Community Supervision, a full and correct copy of which is attached hereto.

[] 1. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Pierce County Jail).

~~X~~ 2. YOU, THE DIRECTOR, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections, and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Department of Corrections custody).

WARRANT OF
COMMITMENT -3

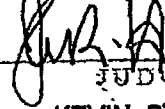
Office of Prosecuting Attorney
 930 Tacoma Avenue S Room 946
 Tacoma, Washington 98402-2171
 Telephone: (253) 798-7400

09-1-02724-4

[] 3 YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for
classification, confinement and placement as ordered in the Judgment and Sentence.
(Sentence of confinement or placement not covered by Sections 1 and 2 above)

Dated: 4/22/11

By direction of the Honorable



JOHN R. HICKMAN

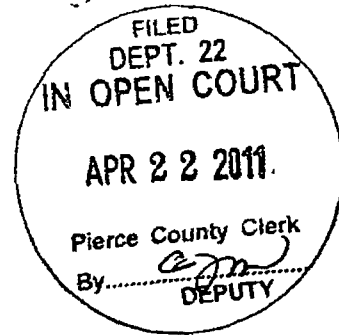
JUDGE
KEVIN STOCK

CLERK

By: 

DEPUTY CLERK

CERTIFIED COPY DELIVERED TO SHERIFF

Date APR 22 2011 

STATE OF WASHINGTON

ss.

County of Pierce

I, Kevin Stock, Clerk of the above entitled
Court, do hereby certify that this foregoing
instrument is a true and correct copy of the
original now on file in my office.

IN WITNESS WHEREOF, I hereunto set my
hand and the Seal of Said Court this
_____ day of _____,

KEVIN STOCK, Clerk

By: _____ Deputy

ajc

WARRANT OF
COMMITMENT -4

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930 Tacoma Avenue S. Room 946
Tacoma, Washington 98402-2171
Telephone: (253) 798-7400

09-1-02724-4



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

APR 22 2011

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 09-1-02724-4

vs.

KEVIN WAYNE FRANKLIN

Defendant

SID. WA21158179
 DOB: 03/07/88

JUDGMENT AND SENTENCE (JS)

☒ Prison ☐ RCW 9.94A.712 Prison Confinement
☐ Jail One Year or Less
☐ First-Time Offender
☐ Special Sexual Offender Sentencing Alternative
☐ Special Drug Offender Sentencing Alternative
☐ Breaking The Cycle (BTC)
☐ Clerk's Action Required, para 4.5 (SDOSA),
 4.7 and 4.8 (SSOSA) 4.15.2, 5.3, 5.6 and 5.8
☐ Juvenile Decline ☐ Mandatory ☐ Discretionary

I. HEARING

11 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

There being no reason why judgment should not be pronounced, the court FINDS: 4/22/11

21 CURRENT OFFENSE(S): The defendant was found guilty on
 by ☐ plea ☒ jury-verdict ☐ bench trial of.

COUNT	CRIME	RCW	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO
I	DRIVE-BY SHOOTING (E14A)	9A.36.045(1)	GANG AGG	05/31/09	091510139 TACOMA PD
II	UNLAWFUL POSSESSION OF A FIREARM IN THE FIRST DEGREE (GGG66)	9A.1.040(1)(a)	GANG AGG	05/31/09	091510139 TACOMA PD
III	ASSAULT IN THE FIRST DEGREE (E23)	9A.36.011(1)(a)	FASE + CO GANG AGG	05/31/09	091510139 TACOMA PD

JUDGMENT AND SENTENCE (JS)
 (Felony) (7/2007) Page 1 of 1

11-9-04684-3

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09-1-02724-4

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Horn, See RCW 46.61 520, (JP) Juvenile present, (SM) Sexual Motivation, (SCF) Sexual Conduct with a Child for a Fee. See RCW 9.94A.533(8) (If the crime is a drug offense, include the type of drug in the second column.)

as charged in the Jury Verdict Information

☐ Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589).

☐ Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number).

2.2 CRIMINAL HISTORY (RCW 9.94A.525):

	CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J ADULT JUV	TYPE OF CRIME
1	ROB 1	07/12/04	KITSAP CO	05/24/04	A	V

☐ The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):

2.3 SENTENCING DATA.

COUNT NO	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	5	VII	41-54 MOS	GANG AGG	41-54 MOS	10 YRS \$20,000
II	3	VII	31-54 MOS	GANG AGG	31-54 MOS	10 YRS \$20,000
III	5	XII	138-184 MOS	FASE + CO GANG AGG 60 MOS	198-244 MOS	LIFE \$50,000

2.4 ☐ **EXCEPTIONAL SENTENCE.** Substantial and compelling reasons exist which justify an exceptional sentence:

☐ within ☐ below the standard range for Count(s) _____

☐ above the standard range for Count(s) _____

☐ The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

☐ Aggravating factors were ☐ stipulated by the defendant, ☐ found by the court after the defendant waived jury trial, ☐ found by jury by special interrogatory.

Findings of fact and conclusions of law are attached in Appendix 2.4. ☐ Jury's special interrogatory is attached. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence.

09-1-02724-4

2.5 **ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS** The court has considered the total amount owing, the defend's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9 94A 753

[] The following extraordinary circumstances exist that make restitution inappropriate (RCW 9 94A.753):

[] The following extraordinary circumstances exist that make payment of nonmandatory legal financial obligations inappropriate

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are [] attached [] as follows:

III. JUDGMENT

3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1

3.2 [] The court DISMISSES Counts _____ [] The defendant is found NOT GUILTY of Counts _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court (Pierce County Clerk, 930 Tacoma Ave #110, Tacoma WA 98402)

JASS CODE

RTNR/N	\$ _____	Restitution to: _____
	\$ _____	Restitution to: _____
	(Name and Address--address may be withheld and provided confidentially to Clerk's Office).	
PCV	\$ 500.00	Crime Victim assessment
DNA	\$ 100.00	DNA Database Fee
PUB	\$ 400.00	Court-Appointed Attorney Fees and Defense Costs
FRC	\$ 200.00	Criminal Filing Fee
FCM	\$ _____	Fine

OTHER LEGAL FINANCIAL OBLIGATIONS (specify below)

\$ _____ Other Costs for _____

\$ _____ Other Costs for _____

\$ 1,200.00 TOTAL

[] The above total does not include all restitution which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

JUDGMENT AND SENTENCE (JS)
(Felony) (7/2007) Page 3 of 3

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09-1-02724-4

[] shall be set by the prosecutor.

[X] is scheduled for 5/27/11

[] RESTITUTION Order Attached

[] The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

[X] All payments shall be made in accordance with the policies of the clerk, commencing immediately, unless the court specifically sets forth the rate herein. Not less than \$ 2500 per month commencing. 2500 RCW 9.94.760. If the court does not set the rate herein, the defendant shall report to the clerk's office within 24 hours of the entry of the judgment and sentence to set up a payment plan.

The defendant shall report to the clerk of the court or as directed by the clerk of the court to provide financial and other information as requested. RCW 9.94A.760(7)(b)

[] COSTS OF INCARCERATION. In addition to other costs imposed herein, the court finds that the defendant has or is likely to have the means to pay the costs of incarceration, and the defendant is ordered to pay such costs at the statutory rate RCW 10.01.160

COLLECTION COSTS The defendant shall pay the costs of services to collect unpaid legal financial obligations per contract or statute. RCW 36.18.190, 9.94A.780 and 19.16.500.

INTEREST The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090

COSTS ON APPEAL. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW. 10.73.160.

4.1b ELECTRONIC MONITORING REIMBURSEMENT. The defendant is ordered to reimburse

(name of electronic monitoring agency) at _____

for the cost of pretrial electronic monitoring in the amount of \$ _____.

4.2 [X] DNA TESTING. The defendant shall have a blood/biological sample drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or DOC, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754

[] HIV TESTING. The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. RCW 70.24.340.

4.3 NO CONTACT

The defendant shall not have contact with Lish Jenkins 01/15/01/39 (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for 5 years (not to exceed the maximum statutory sentence)

[] Domestic Violence No-Contact Order, Antiharassment No-Contact Order, or Sexual Assault Protection Order is filed with this Judgment and Sentence.

4.4 OTHER. Property may have been taken into custody in conjunction with this case. Property may be returned to the rightful owner. Any claim for return of such property must be made within 90 days. After 90 days, if you do not make a claim, property may be disposed of according to law

Fellow co-defendant per DOC/CCO
from assisting co-defendant
Rebut all property in evidence

09-1-02724-4

4 4a BOND IS HEREBY EXONERATED

4 5 CONFINEMENT OVER ONE YEAR. The defendant is sentenced as follows:

(a) CONFINEMENT. RCW 9.94A.589. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

54 months on Count I _____ months on Count _____
 54 months on Count II _____ months on Count _____
 200 months on Count III _____ months on Count _____

[140 w/ 60 months Flat FASE]

Actual number of months of total confinement ordered is: 200 months

(Add mandatory firearm, deadly weapons, and sexual motivation enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data. above).

[] The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.

CONSECUTIVE/CONCURRENT SENTENCES. RCW 9.94A.589. All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm, other deadly weapon, sexual motivation, VUCSA in a protected zone, or manufacture of methamphetamine with juvenile present as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: Count III, 140 months to be served consecutively

60 months FASE

The sentence herein shall run consecutively to all felony sentences in other cause numbers imposed prior to the commission of the crime(s) being sentenced. The sentence herein shall run concurrently with felony sentences in other cause numbers imposed after the commission of the crime(s) being sentenced except for the following cause numbers. RCW 9.94A.589: _____

Confinement shall commence immediately unless otherwise set forth here: _____

(c) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court: 547

09-1-02724-4

4.6 ☐ COMMUNITY PLACEMENT (pre 7/1/00 offenses) is ordered as follows:

Count _____ for _____ months;

Count _____ for _____ months;

Count _____ for _____ months;

☒ COMMUNITY CUSTODY (To determine which offenses are eligible for or required for community custody see RCW 9.94A.701)

(A) The defendant shall be on community custody for the longer of:

(1) the period of early release RCW 9.94A.728(1)(2), or

(2) the period imposed by the court, as follows:

Count(s) III 36 months for Serious Violent Offenses

Count(s) I 18 months for Violent Offenses

Count(s) _____ 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate)

(B) While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while in community custody; (6) not own, use, or possess firearms or ammunition; (7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; (9) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706 and (10) for sex offenses, submit to electronic monitoring if imposed by DOC. The defendant's residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody.

Community custody for sex offenders not sentenced under RCW 9.94A.712 may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

The court orders that during the period of supervision the defendant shall:

☐ consume no alcohol

☐ have no contact with: _____

☐ remain ☐ within ☐ outside of a specified geographical boundary, to wit: _____

☐ not serve in any paid or volunteer capacity where he or she has control or supervision of minors under 13 years of age

☐ participate in the following crime-related treatment or counseling services: _____

☐ undergo an evaluation for treatment for ☐ domestic violence ☐ substance abuse

☐ mental health ☐ anger management and fully comply with all recommended treatment.

☒ comply with the following crime-related prohibitions. Re DOC/CCO

09-1-02724-4

[] Other conditions:

[] For sentences imposed under RCW 9A.712, other conditions, including electronic monitoring, may be imposed during community custody by the Indeterminate Sentence Review Board, or in an emergency by DOC. Emergency conditions imposed by DOC shall not remain in effect longer than seven working days.

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9A.562.

PROVIDED. That under no circumstances shall the total term of confinement plus the term of community custody actually served exceed the statutory maximum for each offense

4.7 [] WORK ETHIC CAMP. RCW 9A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.6.

4.8 OFF LIMITS ORDER (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections: _____

09-1-02724-4

V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.
- 5.2 **LENGTH OF SUPERVISION** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purpose of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505. The clerk of the court is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).
- 5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.
- 5.4 **RESTITUTION HEARING.**
~~Defendant~~ Defendant waives any right to be present at any restitution hearing (sign initials): K.F.
- 5.5 **CRIMINAL ENFORCEMENT AND CIVIL COLLECTION.** Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. Per section 2.5 of this document, legal financial obligations are collectible by civil means. RCW 9.94A.634.
- 5.6 **FIREARMS.** You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047
- 5.7 **SEX AND KIDNAPPING OFFENDER REGISTRATION** RCW 9A.44.130, 10.01.200
 N/A
- 5.8 ☐ The court finds that Court _____ is a felony in the commission of which a motor vehicle was used. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke the defendant's driver's license. RCW 46.20.285
- 5.9 If the defendant is or becomes subject to court-ordered mental health or chemical dependency treatment, the defendant must notify DOC and the defendant's treatment information must be shared with DOC for the duration of the defendant's incarceration and supervision. RCW 9.94A.562.

09-1-02724-4

5.10 OTHER: _____

DONE in Open Court and in the presence of the defendant this date: 4/22/11

JUDGE

Print name

John R. Hickman

Deputy Prosecuting Attorney

Print name: Seamus RuffWSB # 38725

Attorney for Defendant

Print name: MJMWSB # 13218

Defendant

Print name: _____

VOTING RIGHTS STATEMENT: RCW 10 64 140. I acknowledge that my right to vote has been lost due to felony convictions. IF I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: a) A certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) A court order issued by the sentencing court restoring the right, RCW 9.92.066, c) A final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) A certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 92A.84.660.

Defendant's signature: [Signature]

FILED
DEPT. 22
IN OPEN COURT

APR 22 2011

Pierce County Clerk

By: [Signature]
DEPUTY

09-1-02724-4

CERTIFICATE OF CLERK

CAUSE NUMBER of this case: 09-1-02724-4

I, KEVIN STOCK Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: _____.

Clerk of said County and State, by: _____, Deputy Clerk

IDENTIFICATION OF COURT REPORTER**Emily Dirton**

Court Reporter

09-1-02724-4

APPENDIX "F"

The defendant having been sentenced to the Department of Corrections for a

- ☐ sex offense
☒ serious violent offense
☐ assault in the second degree
☐ any crime where the defendant or an accomplice was armed with a deadly weapon
☐ any felony under 69 50 and 69 52

The offender shall report to and be available for contact with the assigned community corrections officer as directed:

The offender shall work at Department of Corrections approved education, employment, and/or community service;

The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions;

An offender in community custody shall not unlawfully possess controlled substances;

The offender shall pay community placement fees as determined by DOC:

The residence location and living arrangements are subject to the prior approval of the department of corrections during the period of community placement.

The offender shall submit to affirmative acts necessary to monitor compliance with court orders as required by DOC.

The Court may also order any of the following special conditions:

- ☐ (I) The offender shall remain within, or outside of, a specified geographical boundary: _____

☐ (II) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals. _____

☐ (III) The offender shall participate in crime-related treatment or counseling services;
☐ (IV) The offender shall not consume alcohol, _____
☐ (V) The residence location and living arrangements of a sex offender shall be subject to the prior approval of the department of corrections; or
☐ (VI) The offender shall comply with any crime-related prohibitions.
☒ (VII) Other: per Doc/CCO

APPENDIX F

Office of Prosecuting Attorney
 930 Tacoma Avenue S. Room 946
 Tacoma, Washington 98402-2171
 Telephone: (253) 798-7400

09-1-02724-4

IDENTIFICATION OF DEFENDANT

SID No WA21158179
(If no SID take fingerprint card for State Patrol)

Date of Birth 03/07/88

FBI No. 56943XBO

Local ID No. UNKNOWN

PCN No. 539808770

Other

Alias name, SSN, DOB _____

Race:

☐ Asian/Pacific
Islander

☒ Black/African-
American

☐ Caucasian

Ethnicity:

☐ Hispanic

Sex:

☒ Male

☐ Native American

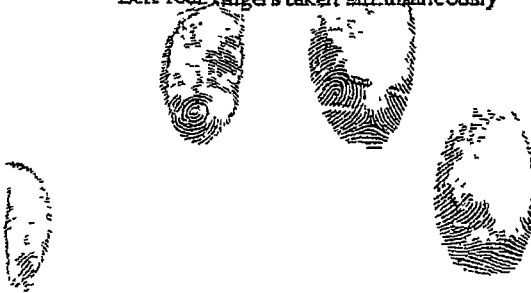
☐ Other :

☒ Non-
Hispanic

☐ Female

FINGERPRINTS

Left four fingers taken simultaneously



Left Thumb



Right Thumb



Right four fingers taken simultaneously



I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and
signature thereto. Clerk of the Court, Deputy Clerk, _____ Dated, _____

DEFENDANT'S SIGNATURE

DEFENDANT'S ADDRESS: _____

JUDGMENT AND SENTENCE (JS)
(Felony) (7/2007) Page 11 of 11

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Tacoma, Washington 98402-2171
Telephone: (253) 798-7400